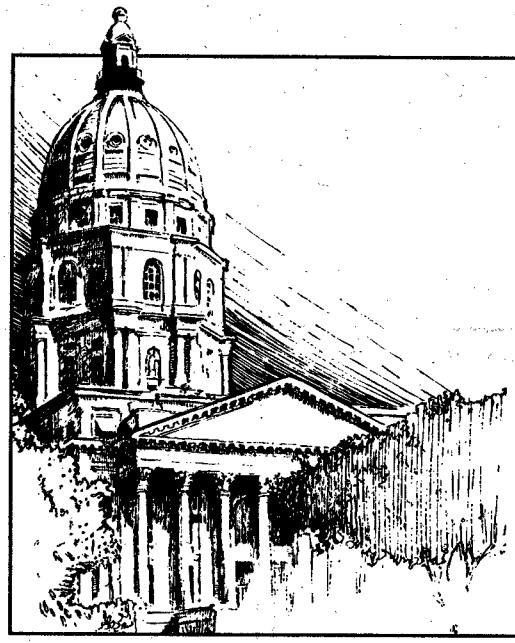

Kansas Register

Ron Thornburgh, Secretary of State

Vol. 14, No. 50 December 14, 1995 Pages 1649-1686

In this issue . . .

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of December 18-31:

Date	Room	Time	Committee	Agenda
December 18	519-S	1:30 p.m.	Telecommunications Strategic Planning Committee	Review of and modifications to draft committee report.
December 19	123-S	10:30 a.m.	Legislative Coordinating Council	Legislative matters.
December 19	519-S	9:00 a.m.	Legislative Post Audit	Legislative matters.

Emil Lutz
Director of Legislative
Administrative Services

Doc. No. 017094

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1994 Supp. 75-4210, as amended. These rates and their uses are defined in K.S.A. 75-4201(l), 12-1675(b)(c)(d) and 75-4209(a)(1)(B), as amended.

Effective 12-18-95 through 12-24-95

Term	Rate
0-90 days	5.78%
3 months	5.48%
6 months	5.43%
9 months	5.41%
12 months	5.37%
18 months	5.39%
24 months	5.33%
36 months	5.45%
48 months	5.54%

Sally Thompson
State Treasurer

Doc. No. 017091

State of Kansas

University of Kansas Medical Center

Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Medical Center, Purchasing Department, 3901 Rainbow Blvd., Kansas City, KS 66160-7162, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call Peggy Davis at (913) 588-1115 for additional information.

Thursday, December 28, 1995

726186

Laser Doppler flowmeter system

726187

Research microscope phase and fluorescence

726188

Mailer machine

Barbara Lockhart
Purchasing Director

Doc. No. 017090

The Kansas Register (ISSN No. 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are $60 (Kansas residents must include $3.69 state and local sales tax). Single copies may be purchased, if available, for $2 each. Second class postage paid at Topeka, KS.

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(913) 296-2236

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Room 235-N, State Capitol
(913) 296-3489

State of Kansas

Pooled Money Investment Board

Notice of Meeting

The Pooled Money Investment Board will meet at 1 p.m. Tuesday, December 19, in the State Treasurer's Office, Conference Room 203, Landon State Office Building, 900 S.W. Jackson, Topeka. All meetings of the board are open to the public. For more information, contact Diane Gates at (913) 296-3372.

Sally Thompson
Chair

Doc. No. 017084

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Asphalt Sales Company, Inc. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of PM-10 were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Asphalt Sales Company, Inc., 95th and Ogg, Lenexa, is operating a hot mix asphalt plant located at Section 36, Township 12 South, Range 23 East, Lenexa.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Johnson County Environmental Department, 11180 Thompson Ave., Lenexa. To obtain or review the proposed permit and supporting documentation, contact Cheryl Evans, (913) 296-6438, at the KDHE central office, or Mike Boothe, (913) 492-0402, at the Johnson County Environmental Department. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Cheryl Evans, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business January 15 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business January 15 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017093

State of Kansas

Board of Education

Notice of Hearings on Kansas State Plan for Special Education

The State Board of Education will conduct two public hearings to consider the proposed Kansas State Plan for Special Education and the Preschool Grant Application for fiscal year 1997. The first hearing will be at 2:30 p.m. Tuesday, January 16, at the State Board of Education ITV Room, 120 S.E. 10th Ave., Topeka, with interactive television video sites at Garden City Community Academic Building, Room B142, 801 Campus Drive, Garden City; Southeast Kansas Education Service Center, Route 4, Greenbush; Northwest Kansas Area Health Education, 217 E. 32nd, Hays; Wichita State University, Media Resources Center, Room 158A, Wichita; University of Kansas Medical Center, 3901 Rainbow Blvd., Room 2004, Kansas City; and Kansas State University-Salina, Technology Center, 2409 Scanlan Ave., Room TC113C, Salina. The second hearing will be at 2 p.m. Monday, January 22, at the Instructional Materials Center, 412 S. Main, Wichita. Summaries of testimony provided at each hearing will be on file in the Special Education Outcomes Section at the State Board of Education office.

The Proposed Title VI-B Individual Disabilities Education Act Program Plan is a compliance document which provides assurance that Kansas statutes, regulations, policies and procedures are in compliance with the Individuals With Disabilities Education Act. To be eligible for funding, a state must file a plan with the Office of Special Education Programs, U.S. Department of Education. The plan also includes procedures for administration of Title VI-B funds.

The Kansas Special Education for Exceptional Children Act and state regulations require each local education agency in the state of Kansas to provide all children and youth, including those classified as exceptional, not only a right to a free public education, but also to an education which is appropriate to their needs.

A copy of the proposed plan may be obtained by contacting the secretary of the State Board of Education, State Education Building, 120 S.E. 10th Ave., Topeka, 66612, prior to the date of the hearing. Written comments on the state plan will be accepted through February 2.

Any individual with a disability may request accommodation in order to participate in the public hearings. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Lanny Gaston at (913) 296-3906 or (913) 296-8172 (TDD).

All interested individuals and organizations will be afforded an opportunity to present their views and make recommendations regarding the plan at the hearing. The hearing shall be conducted in compliance with public hearing procedures of the State Board of Education.

Kathleen White
Chair

Doc. No. 017088

State of Kansas

Kansas Value Added Center

Notice of Leadership Council Meeting

The Kansas Value Added Center Leadership Council will meet at 9 a.m. Monday, December 18, at the National Teachers' Hall of Fame Building, second floor, 1320 C of E Drive, Emporia.

Gordon M. Lormor
Interim President

Doc. No. 017083

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Kansas Paving has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to construct an asphalt plant to produce 138 tons of asphalt per hour. Emissions of total particulate matter, volatile organic compounds and nitrogen oxides were evaluated during the permit review process.

Kansas Paving, 5630 N. Broadway, Wichita, owns and operates the stationary source located at Section 21, Township 26 South, Range 1 East of the 6th PM in Sedgwick County, at which the asphalt plant is to be constructed.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Wichita-Sedgwick County Department of Community Health, 1900 E. 9th, Wichita. To obtain or review the proposed permit and supporting documentation, contact John S. Ramsey, (913) 296-1992, at the KDHE central office, or Fred Spencer, (316) 268-8448, at the Wichita-Sedgwick County Department of Community Health. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to John S. Ramsey, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business January 15 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business January 15 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017086

State of Kansas

Kansas State University

Notice of Intent to Lease Land

The Kansas State University Agricultural Research Center—Hays will lease various portions of four tracts of land situated in Sections 24 and 25 of Township 11 South, Range 17 West in Ellis County for the purposes of disposal or injection of saltwater or other fluids into the wellbore of the Colahan "B" #26 D fluid disposal well and the Colahan "A" #29 fluid disposal well, along with the construction, operation and maintenance of a LACT unit and central separation facility site.

Special restrictions and conditions apply. Direct inquiries to: Dr. Pat Coyne, Head, Agricultural Research Center—Hays, 1232 240th Ave., Hays, 67601-9228, (913) 625-3425.

Keith L. Ratzloff
Controller

Doc. No. 017097

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Public Notice No. KS-95-108/112

Name and Address of Applicant	Waterway	Type of Discharge
BPU—McPherson Power Plant 1 414 W. Elizabeth McPherson, KS 67460	Little Arkansas River via Turkey Creek via Dry Turkey Creek via Bull Creek	Boiler and cooling tower blowdown, stormwater and miscellaneous floor drains

Kansas Permit No. I-LA11-PO03 Fed. Permit No. KS-0079740

Facility Description: This is a standby electrical generating station used for peaking and emergency power. Wastewater discharges consist of cooling tower and boiler blowdown, floor drains and stormwater runoff from oil storage. Water treatment plant backwash and floor drains and domestic wastewater are discharged into the city sanitary sewer. Average daily discharge from this facility to Bull Creek, excluding stormwater runoff, is about 60,500 gallons. The effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
BPU—McPherson Power Plant 2 1128 W. Ave. A McPherson, KS 67460	Little Arkansas River via Turkey Creek via Dry Turkey Creek via Bull Creek	Boiler and cooling tower blowdown stormwater and miscellaneous floor drains

Kansas Permit No. I-LA11-PO04 Fed. Permit No. KS-0079758

Facility Description: This is a standby electrical generating station used for peaking and emergency power. Wastewater discharges consist of cooling tower and boiler blowdown, gas turbine evaporative cooler blowdown, floor drains and stormwater runoff from oil storage. Domestic wastewater is directed to a septic tank. Water treatment backwash water is connected to the sanitary sewer. Average daily discharge from this facility to Bull Creek, excluding stormwater run-off, is about 163,800 gallons. The effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Kechi City Hall Kechi, KS 67067	Little Arkansas River via middle fork of Chisolm	Treated domestic wastewater

Kansas Permit No. M-LA09-OO01 Fed. Permit No. KS-0049727

Facility Description: This is an existing four-cell lagoon for the treatment of domestic wastewater. The effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Nellcor Puritan Bennett 9101 Bond St. Overland Park, KS 66214	Neosho River via Spring River	Treated process wastewater

Kansas Permit No. I-NE28-PO02 Fed. Permit No. KS-0117846

Facility Location: Military Plant, Galena, Kansas

Facility Description: This facility manufactures nitrous oxide by decomposition of ammonium nitrate solution. Process wastewater is commingled with contact cooling water, boiler and cooling tower blowdown, then neutralized before discharging into Spring River. Domestic wastewater is directed to a septic tank. Average total discharge from this facility is about 21,000 gallons per day. The effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Phillips Pipeline Co. Paola Terminal 364 Adams Building Bartlesville, OK 74004	Marais des Cygnes River via unnamed tributary	Treated process wastewater

Kansas Permit No. I-MC33-PO04 Fed. Permit No. KS-0028371

Facility Location: 25760 W. 343rd, Paola, Kansas

Facility Description: This facility receives, stores and transports refined petroleum products, which consist of various grades or types of gasoline, diesel, highly volatile liquids and distillates. Stormwater flowing from dikes and containment areas and other subsurface drainage are directed to an earthen detention pond. Further, this facility discharges hydrostatic test water from new and used pipelines and tanks through an earthen pond and/or drainage ditches. The effluent limitations are pursuant to Kansas surface water quality standards, K.A.R. 28-16-28(b-f), and federal surface water criteria, and are water quality based.

Public Notice No. KS-ND-95-87

Name and Address of Applicant	Location	Type of Discharge
Kansas State Grange Camp c/o Manager Route 1, Box 543 Meriden, KS 66512	SE/4, S14, T10S, R17E, Jefferson County	Nonoverflowing

Kansas Permit No. C-KS43-NO02

Facility Description: The proposed permit for this facility is for operation of an existing nonoverflowing wastewater treatment lagoon treating domestic wastes. Disposal of the lagoon wastewater is by percolation and evaporation. The proposed permits contain schedules of compliance requiring the facility to obtain the services of a KDHE-certified operator by December 31, 1996.

Public Notice No. KS-EG-95-32/37

Draft permits have been prepared for the re-permitting of six salt solution mining wells constructed within the state of Kansas for the applicant described below.

Description: The wells listed below are operated for the production of salt by solution mining activities. All wells are located in Reno County, Kansas, and are operated by North American Salt Company, 1800 Carey Blvd., Hutchinson, KS 67501.

Well Number and Permit Number	Well Location
Well Number 105 KS Permit No. KS-03-155-026	SW SW SE S17 T23S R5W 357' fsl and 2427' fel of SE/4
Well Number 110 KS Permit No. KS-03-155-027	SW SW SE S17 T23S R5W 84' fsl and 2377' fel of SE/4
Well Number 112 KS Permit No. KS-03-155-028	SE SW SE S17 T23S R5W 82' fsl and 1982' fel of SE/4
Well Number 113 KS Permit No. KS-03-155-029	SE SW SE S17 T23S R5W 81' fsl and 1676' fel of SE/4
Well Number 114 KS Permit No. KS-03-155-030	SW SW SE S17 T23S R5W 82' fsl and 1376' fel of SE/4
Well Number 115 KS Permit No. KS-03-155-031	SW SE SE S17 T23S R5W 82' fsl and 1074' fel of SE/4

Written comments on the proposed determinations may be submitted to the permit clerk, or to Lisa Duncan for agricultural permits, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Building 283, Topeka, 66620. All comments postmarked or received on or before January 12 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-95-108/112, KS-ND-95-87, KS-EG-95-32/37) and the name of applicant as listed when preparing comments.

If no objections are received during the public notice period, the Secretary of Health and Environment will issue the final determinations. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61 (28-46-21 for UIC). Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 283, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017092

State of Kansas

Military Advisory Board

Notice of Meeting

The Kansas Military Advisory Board of the Adjutant General's Department will conduct a meeting at 10:30 a.m. Thursday, January 4, in the State Defense Building, Conference Room 102, 2800 S.W. Topeka Blvd., Topeka. An agenda may be obtained by contacting Charles G. Bredahl, Office of the Adjutant General, (913) 274-1004.

Charles G. Bredahl
Special Assistant to
The Adjutant General

Doc. No. 017087

State of Kansas

Department of Transportation

Notice of Public Auction

The Kansas Secretary of Transportation will offer for sale and removal at public auction January 17 the following improvements located in Shawnee County, Kansas, described as follows:

8:30 a.m.—Tract 1—2501 S.W. 37th, Topeka (south of 37th Street and west of Burlingame Road)

1. 1,460 sq. ft. one-story frame ranch type house with 3 BR, LR, Kit/DR, utility, 1 bath over partial basement
2. 20' X 35' frame outbuilding

Items 1 and 2 sold separately

9:30 a.m.—Tract 14—1101 S.E. Rice Road, Topeka

2,088 sq. ft. brick veneer ranch house, 3 BR, LR, den, Kit/DR, 2½ bath, 2-car attached garage

10:30 a.m.—Tract 11—3637 S.E. Highway 40, Lot A7 (inside England Mobile Park, first street ("A") turn left, last lot on north side of "A" St.

1. 964 sq. ft 1972 Homette Trailer, 2 BR, LR, Kit/DR, 1 bath
2. 8' X 10' storage shed

Items 1 and 2 sold separately

11:30 a.m.—Tract 40—4034 S.E. Highway 40 (located ½ mile east of Croco Road on the north side of Highway 40)

1. 1,506 sq. ft. alum. siding residence, 3BR, LR, Kit/DR, 1 bath, fireplace, 2-car attached garage
2. 8' X 10' storage shed

Items 1 and 2 sold separately

12:30 p.m.—Tract 35—4111 S.E. Highway 40 (located ¾ mile east of Croco Road on the south side of Highway 40)

1. 1,550 sq. ft. 2-story frame house, 3 BR, LR, DEN, Kit/DR, 1 bath
2. 776 sq. ft. 2-car detached garage
3. 212 sq. ft. wood shed
4. Basketball goal

Items 1, 2, 3 and 4 sold separately

1:30 p.m.—Tract 45—4325 S.E. Highway 40 (located 1 mile east of Croco Road on the south side of Highway 40)

1. 1,394 sq. ft. vinyl siding home, 2 BR, LR, Kit/DR, 1 bath, den with fireplace, utility room, 2-car attached garage
2. 222 sq. ft. 1-car detached garage
3. 206 sq. ft. frame shop building

Items 1, 2 and 3 sold separately

2:30 p.m.—Tract 46—4331 S.E. Highway 40 (located 1 mile east of Croco Road on the south side of Highway 40)

1. 840 sq. ft. 1-story frame house, 3 BR, LR, Kit/DR, 1½ bath, 1-car attached garage
2. 288 sq. ft. utility building
3. 204 sq. ft. utility building

Items 1, 2 and 3 sold separately

An inspection of properties will be January 9 from 1 to 3 p.m. and 30 minutes prior to each sale.

Performance Bonds:

Houses $2,500
Trailer $750
Sheds, shops and detached garages $100

The successful bidders will be required to remove the structures from the right of way on or before February 17. A performance bond equal to the amount specified above for each sale must be posted on the day of the sale as guarantee of removal of the structures. Any item not moved from the right of way on or before the specified date shall revert to and become the property of the Kansas Department of Transportation. The purchasers shall have no right, title, interest or claim to or lien upon said remaining items or part thereof, nor any claim against the Department of Transportation for the sale price paid after said date.

Purchasers shall not permit use or occupancy of said structures pending removal from highway right of way. If applicable, the purchaser shall, during interim period of moving the improvement and filling in the basement, mark the area with tape, ribbon or fencing, warning the public of the opening.

The Kansas Department of Transportation ensures the acceptance of any bid pursuant to this notice will be without discrimination on the grounds of sex, race, color, religion, physical handicap or national origin.

Terms of the Sale:

Money order, certified check or cashier's check for full price on the day of sale made payable to "Secretary of Transportation." Purchasers will receive a bill of sale.

The seller reserves the right to reject any and all bids and is not responsible for accidents. For additional information, contact Beverly Lee, Bureau of Right of Way, (913) 296-6933.

E. Dean Carlson
Secretary of Transportation

Doc. No. 017098

State of Kansas

Department of Administration

Division of Purchases

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

Tuesday, December 26, 1995

31518

Department of Wildlife and Parks—Ready mix concrete and related items (Hillsdale State Park)

31519

University of Kansas Medical Center—Nitrous oxide (medical gas purity)

31520

Department of Transportation—Pavement repair sealant, various locations

03005

Department of Transportation—Utility body trucks, Salina and Topeka

03006

Department of Wildlife and Parks—Rubber-tracted farm tractor (rental and/or purchase), Great Bend

03007

Department of Transportation—Aggregate (Osage County)

03008

Department of Transportation—Asphalt paving, Pittsburg/Fort Scott

03009

Kansas State University—Furnish and install carpet and cove base

03010

Wichita State University—Vanities and countertops

03042

Kansas State University—Novell NetWare network fileserver

Wednesday, December 27, 1995

31353 Supp.

Statewide—Modems

31521

Kansas Correctional Industries—Amorphous silica and magnesium silicate

31522

University of Kansas—Frozen juice and shelf stable tea and hot chocolate concentrate/dispensers

03017

Emporia State University—Data/video LCD projection system

03018

Emporia State University—CD network server

03019

University of Kansas—Street light pole and fixtures

03020

Department of Wildlife and Parks—Lake destratification unit, Leavenworth State Fishing Lake

03021

Department of Wildlife and Parks—Furnish all labor and materials for joint sealing apron, Milford Fish Hatchery

03030

Kansas State University—LCD overhead projection equipment

Thursday, December 28, 1995

31525

Department of Administration, Division of Information Systems and Communications—Telecommunications labor services

31527

Department of Social and Rehabilitation Services, Kansas Industries for the Blind—Laser cartridge supplies

03027

University of Kansas—Pavement marking tape

03028

Department of Wildlife and Parks—Agricultural tractor/loader, Elk City Wildlife Area

03031

Department of Transportation—Pen-based computers

03034

Department of Transportation—Vacuum street sweeper

Friday, December 29, 1995

03040

Department of Administration, Central Motor Pool—Vehicles

03044

Department of Human Resources—High speed photocopier

Tuesday, January 2, 1996

03029

University of Kansas—Paper, printing and binding: Gulf Coast Soundings

03043

Department of Wildlife and Parks—Native grass seed and forbs, various locations

03045

University of Kansas—Truck

03046

Department of Wildlife and Parks—Turbine water pump, Milford Fish Hatchery

Thursday, January 4, 1996

A-7567

Department of Human Resources—Heating and A/C modifications, second floor, office building

****

Request for Proposals
Wednesday, January 17, 1996

31523

Dial-in network access for the University of Kansas Medical Center

31524

Dial-in network access for Fort Hays State University

John T. Houlihan
Director of Purchases

Doc. No. 017096

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. The following appointments, which are effective immediately unless otherwise specified, were filed December 4-8:

Osborne County Clerk

Sandra Trail, 1014 County 388 Drive, Osborne, 67473. Term expires when a successor is elected and qualifies according to law. Succeeds Gloria Wood, resigned.

Citizens' Utility Ratepayer Board

Gene Merry, 700 Neosho St., Burlington, 66839. Term expires June 30, 1997. Succeeds Bobby Seger, resigned.

Information Network of Kansas

Bill McBride, The Meade Company, 909 S.E. Quincy, Topeka, 66612. Term expires September 30, 1998. Succeeds Don Morris.

Kansas Information Resources Council

(Terms effective January 1, 1996 and expire June 30, 1997.)

Fred Boesch, Chief Information Architect, Room 263-E, State Capitol, 300 S.W. 10th, Topeka, 66612.

Dean Carlson, Secretary of Transportation, 7th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Rochelle Chronister, Secretary of Social and Rehabilitation Services, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Jim Clark, Western Resources, 818 Kansas Ave., Topeka, 66612.

Dale Dennis, Acting Commissioner of Education, 120 S.E. 10th, Topeka, 66612.

Sheila Frahm, Chair, Secretary of Administration, Room 222-S, State Capitol, 300 S.W. 10th, Topeka, 66612.

Wayne Franklin, Secretary of Human Resources, 401 S.W. Topeka Blvd., Topeka, 66603.

Melanie Gannin, Southwestern Bell Telephone Company, 220 E. 6th, Topeka, 66603.

Thelma Hunter Gordon, Secretary of Aging, Room 150-S, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Stephan Jordan, State Board of Regents, 700 S.W. Harrison, Suite 1410, Topeka, 66603.

John LaFaver, Secretary of Revenue, Room 216-N, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Jim O'Connell, Secretary of Health and Environment, 6th Floor, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612.

Howard Schwartz, Judicial Administrator, Kansas Judicial Center, 301 S.W. 10th, Topeka, 66612.

Susan Seltsam, State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, 66604.

Charles Simmons, Secretary of Corrections, Room 404-N, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612.

Ron Terzian, Boeing Commercial Airplane Group, Boeing Computer Services, P.O. Box 7730, MS K15-30, Wichita, 67277.

Gloria Timmer, Director, Division of the Budget, Room 152-E, State Capitol, 300 S.W. 10th, Topeka, 66612.

Barbara Tombs, 700 S.W. Jackson, Suite 501, Topeka, 66603.

Kansas Public Employee Retirement Study Commission

Joe Palacioz, City Hall, 125 E. Avenue B, Hutchinson, 67501. Term expires September 30, 1998. Succeeds David Isabell.

Solid Waste Grants Advisory Committee

(Established pursuant to 1995 Session Laws of Kansas, Chapter 221. Terms expire December 12, 1997.)

Don Anderson, 414 N. Washington, Lindsborg, 67456.

Charles Peckham, 308 Main, P.O. Box 46, Atwood, 67730.

Dale K. Sutton, 720 Washington, Hugoton, 67951.

James Triplett, Department of Biology, Pittsburg State University, Pittsburg, 66762.

Phillip Wittek, 7411 Delmar, Prairie Village, 66208.

Ron Thornburgh
Secretary of State

State of Kansas

Attorney General

Opinion No. 95-113

Townships and Township Officers—Township Officers—Salaries; Reimbursement for Expenses. Nola Foulston, Sedgwick County District Attorney, Wichita; Robert W. Fairchild, Douglas County Counselor, Lawrence, November 21, 1995.

Township board members may be compensated only for the positions which they are statutorily authorized to hold and only in the amount specified by statute. A monthly "salary" may not be paid in lieu of the specified amounts. Cited herein: K.S.A. 68-101; 68-132; 68-523; 68-525; 68-530, as amended by L. 1995, ch. 232, § 3; 80-207; 80-302; 80-1204; 80-1407; 80-1421; 80-1542; 80-1544; 80-1904; 80-1917; 80-2002; 80-2510. CN

Opinion No. 95-114

Constitution of the State of Kansas—Legislative—Election or Appointment of Officers; Appointments; Terms of Office; Constitutionality of Legislation Shortening the Fixed Terms of Incumbent Public Officers. Senator Gerald L. Karr, 17th District, Emporia, November 21, 1995.

Except to the extent the duration of a term of public office is specified or limited by the Kansas Constitution, the legislature may constitutionally alter the term, even if the effect is to cut short the unexpired term of an in-

cumbent officer. A person appointed to public office has no vested property or liberty interest in holding the office. Nor does an incumbent have a contract right to hold the office for the duration of the original fixed term. Cited herein: Kan. Const., art. 2, § 18, art. 6, §§ 2, 3, art. 15, §§ 1, 2; K.S.A. 74-3201, as amended by L. 1995, ch. 241, § 12; K.S.A. 75-4315b; L. 1995, ch. 241. LEG

Opinion No. 95-115

State Departments; Public Officers and Employees—Kansas Tort Claims Act—Definitions; Governmental Entity; Kansas State University Research Foundation. Ted D. Ayres, General Counsel, Kansas Board of Regents, Topeka, November 21, 1995.

The Kansas State University Research Foundation (KSURF) is a governmental entity for purposes of the Kansas tort claims act. Cited herein: K.S.A. 75-6101; K.S.A. 1994 Supp. 75-6102, as amended by L. 1995, ch. 82, § 7; 75-6104, as amended by L. 1995, ch. 260, § 10; 76-711. JLM

Opinion No. 95-116

Cities and Municipalities—Additions, Vacation and Lot Frontage; Annexation by Cities—Conditions Which Permit Annexation; Definition of "Adjoin." Michelle M. Suter, DeSoto City Attorney, Kansas City, Missouri, November 21, 1995.

For purposes of annexation, properties that adjoin a military reservation do not adjoin a city unless the properties lie upon or touch the city boundary line or lie upon or touch a highway, railway or watercourse which abuts the city boundary line and separates such city and the properties by only the width of such highway, railway or watercourse. Cited herein: K.S.A. 12-519; K.S.A. 1994 Supp. 12-520; K.S.A. 12-529. MF

Opinion No. 95-117

Schools—Charter Schools—Waiver of Policies, Rules and Regulations, Statutory Provisions; Authority of State Board of Education; Constitutionality. Dale M. Dennis, Interim Commissioner of Education, Topeka, November 28, 1995.

The delegation of authority under K.S.A. 1994 Supp. 72-1906 to the State Board of Education allowing waiver of statutory requirements results in the complete and total delegation to the State Board of Education the authority to adopt or determine laws contrary to express statutory provisions. Such delegation of legislative authority violates the Kansas Constitution. The provisions resulting in an unlawful delegation of legislative authority to the State Board of Education may be severed from the legislative act such that the establishment and operation of charter school programs pursuant to K.S.A. 1994 Supp. 72-1903 *et seq.* remains possible. Cited herein: K.S.A. 1994 Supp. 72-1903; 72-1906; Kan. Const., art. 6, §§ 1, 2. RDS

Opinion No. 95-118

Schools—Community Colleges—Organization, Powers and Finances of Boards of Trustees—Boards of Trustees; Powers and Duties; Student Housing; Searches. Robert L. Peter, Legal Counsel for Barton County Community College, Ellinwood, December 1, 1995.

Personnel of a community college may without prior cause conduct a canine sniff within the corridors of on-campus student housing. An alert by a dog used in a canine sniff provides probable cause for conducting a search of the student's living quarters. Personnel of a community college may conduct a warrantless search of a student's living quarters in on-campus student housing only when the search is conducted for the purpose of furthering the educational functions of the community college, law enforcement involvement is minimal, and the housing contract authorizes searches by school personnel. While personnel of the community college may conduct a warrantless search of a student's living quarters in on-campus student housing following an alert by a drug sniffing canine, the search must further an interest separate and distinct from that served by the state's criminal law. Cited herein: Kan. Const., Bill of Rights, § 15; U.S. Const., amend. IV. RDS

Opinion No. 95-119

Public Records, Documents and Information—Records Open to the Public—Inspection of Records; Abstracts or Copies of Records; Certain Records Not Required to be Open; Taxpayer Information; County Disclosure of Such Records and Review in an Executive Session.

State Departments, Public Officers, Employees—Public Officers, Employees; Open Public Meetings—Closed or Executive Meetings; Review of Financial Information and Records.

Taxation—Property Valuation, Equalizing Assessments, Appraisers and Assessment of Property; General Provisions—Real Estate Sales Validation Questionnaires; Disclosure. Philip E. Winter, Lyon County Counselor, Emporia, December 5, 1995.

Unlike review of a public record in open meeting, executive session review of a public record by an entity subject to the Kansas open meetings act does not alter the nature of or laws applicable to disclosure of that record. The Kansas open records act generally requires all public records to be open unless a specific law applies to that record in such a way as to require or allow closure of the public record in question. Whether a specific document fits the definition of a public record, or is subject to closure under a specific law, is a fact question which must be answered on a case-by-case basis. K.S.A. 1994 Supp. 45-221(a) and (b), 79-1437c and 79-1437f, as amended, should all be considered when reviewing a record that contains financial information provided to a county pursuant to taxing authority. Cited herein: K.S.A. 45-215; K.S.A. 1994 Supp. 45-217; 45-221, as amended by L. 1995, ch. 257, § 6; K.S.A. 75-4317; K.S.A. 1994 Supp. 75-4319, 79-1437c, as amended by L. 1995, ch. 252, § 25; 79-1437f. TMN

Carla Stovall
Attorney General

Doc. No. 017095

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117(b), records of the Division of Accounts and Reports show the unobligated balances are $4,582,614.80 in the underground petroleum storage tank release trust fund and $6,803,629.68 in the aboveground petroleum storage tank release trust fund at November 30, 1995.

Sheila Frahm
Secretary of Administration

Doc. No. 017082

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 16.—WATER POLLUTION CONTROL

28-16-56a. Sewage permit fees; definitions. For the purposes of K.A.R. 28-16-56b:

(a) "Sewage" shall be defined as in K.S.A. 65-164.

(b) "Domestic sewage" means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage-grinding, toilets, baths, showers and sinks.

(c) "Municipal waste treatment facility" means a facility serving a city, county, township, sewer district or other governmental unit for the purpose of treating primarily domestic sewage by physical, chemical or biological means, or by a combination of those methods.

(d) "Commercial waste treatment facility" means a facility serving a commercial enterprise or group, or a combination thereof, for the purposes of treating primarily domestic sewage by physical, chemical or biological means or by a combination of those methods and includes slaughter houses with an average slaughter rate of 50 animals or less per week.

(e) "Industrial waste treatment facility" means a facility serving an industrial, municipal, or commercial enterprise or group or a combination thereof, for the purposes of treating primarily sewage or process-generated wastewater other than domestic sewage by physical, chemical or biological means or by a combination of those methods. Industrial waste treatment facility includes truck wash facilities except animal waste truck washes, municipally-owned electricity generating facilities and water treatment plants.

(f) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term shall not include return flows from irrigated agriculture or agricultural storm water runoff.

(g) "Storm water discharge" means any point source discharge of storm water runoff. This designation may include, but is not limited to, storm water runoff from a municipal, industrial or commercial facility, or from a construction site, or a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers.

(h) "Cooling water discharge" means cooling water from any system in which there is no contact with process pollutants and where there is no measured chemical buildup other than chemicals added for biological control. All other cooling water systems in which any substance has been added to the cooling water for corrosion control shall be classified as industrial waste treatment facilities and the fee shall be based either on the design, or on measured blowdown, whichever is greater.

(i) "Dewatering discharge" means a discharge resulting from drainage or removal of water from a lagoon, quarry, pit or other holding device. Dewatering discharge shall not include discharge in which there is measured chemical buildup or to which chemicals have been added for any purpose.

(j) "Dairy farm waste control facility" means a facility used to treat or retain the sewage from the loafing areas, barns, milking parlor, bulk tank and appurtenances and cattle pens associated with the operation of a Grade A dairy farm or a dairy farm which produces manufacturing milk. This classification shall not apply to a processing plant which pasteurizes or bottles milk or which manufactures milk products.

(k) "Confined feedlot waste control facility" means a facility used to treat or retain the sewage from confined animal feeding operations including, but not limited to, cattle, swine, poultry, or sheep feeding operations, or any combination thereof, on land under common ownership with a contiguous boundary, excluding public roadways. Two animal feeding operations on separate pieces of land without a contiguous ownership boundary shall be classified as separate operations and each operation shall be assessed a fee under K.A.R. 28-16-56b. (Authorized by and implementing K.S.A. 65-166a; effective, T-85-30, Nov. 14, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Dec. 29, 1995.)

28-16-56b. Sewage permit fees; schedules. (a) Each applicant applying for a permit pursuant to K.S.A. 65-165, and each holder of a permit issued pursuant to K.S.A. 65-165 and amendments thereto, shall submit the appropriate fee in accordance with the following schedule:

Schedule of Fees at Annual Rate

Classification	*Unit Rates and Minimum Rates*
(1) Municipal or commercial waste treatment facility.	$185/year/million gallons per day design capacity and for any portion thereof. $185 minimum fee per year.
(2) Municipal stormwater system. 100,000+ population.	$2000 per year.
(3) Industrial waste treatment facility.	$320/year/million gallons per day design capacity and for any portion thereof. $320 minimum fee per year.

Classification	Unit Rates and Minimum Rates
(4) Cooling water discharge—surface disposal.	$60 per year.
(5) Dewatering discharge.	$60 per year.
(6) Industrial stormwater discharge—general permit.	$40 per year.
(7) Industrial stormwater discharge—individual permit.	$320 per year.
(8) Dairy farm waste control facility: 500 cow herd or more	$30 per year.
(9) Confined animal feedlot waste control facility:	
1,000-4,999 head	$30 per year.
5,000-9,999 head	$75 per year.
10,000 head or more	$150 per year.
(10) Poultry waste control facility:	
10,000-49,999 fowl	$30 per year.
50,000-99,999 fowl	$75 per year.
100,000 fowl or more	$150 per year.
(11) Truck washing facility for animal wastes.	$320 per year.

(b)(1) Plans and specifications shall not be reviewed and processing and issuance of a permit shall not take place until the required fee is paid. Fees shall be made payable to "Kansas department of health and environment—water pollution control permit."

(2) Fees paid in accordance with the above schedule, including fees paid for facilities which are never built or which are abandoned, shall not be refunded.

(3) Applicants operating a facility in which two or more of the wastes identified in the above fee schedule are disposed of shall pay the appropriate fee for each type of waste disposed, even if only one permit has been issued for the facility.

(4) Permit fees shall be based on the minimum rate or unit rate, whichever is greater. The full unit rate shall be applied to any portion of a unit. The fee per unit shall not be prorated.

(5) If, during the term of a valid permit, ownership of the permitted facility changes, no additional fee shall be required unless a change occurs which results in a new or expanded facility or operation.

(6) A permit fee shall be paid annually in accordance with the above schedule. Payment shall be due on the month and day of the permit expiration date. After the effective date of this regulation, the appropriate annual permit fee shall be charged when the next permit payment is due.

(7) If, during the term of a valid permit, a change occurs which results in an expanded capacity of the facility or operation, a new application shall be required. Upon approval, the existing permit shall be amended and shall continue in effect for the remainder of its original term, unless revoked. The additional fee shall be based only on the difference between the original permitted capacity and the expanded capacity. The new annual fee for the expanded facility shall be based on the annual unit at the expanded capacity or the minimum rate, whichever is greater, for the remainder of the term of the permit. (Authorized by and implementing K.S.A. 65-166a; effective, T-85-30, Nov. 14, 1984; effective May 1, 1985; amended Dec. 29, 1995.)

Article 34.—HOSPITALS

28-34-62a. Construction standards. (a) General provisions. All ambulatory surgical center construction subsequent to the adoption of this regulation, including new buildings and additions or alterations to existing buildings, shall be in accordance with those standards set forth under sections 1., 2., 3., 4., 5., 6., and subsections 9.1, 9.2, 9.5, and 9.9 in the American institute of architects publication entitled 1992-93 "guidelines for construction and equipment of hospital and medical facilities."

(b) Codes and publications. The codes and publications that are referenced in subsections 1.5.E and 1.5.F of "guidelines for construction and equipment of hospital and medical facilities" shall be followed.

(c) Provisions for handicapped. All construction shall be in compliance with those standards set forth in the "Americans with disabilities act" as published in the federal register at 28 CFR Part 36, Subpart D, on July 26, 1991, which are hereby adopted by reference.

(d) Construction plans and specifications.

(1) Plans and specifications for each new ambulatory surgical center and each alteration and addition to any existing ambulatory surgical center, other than minor alterations, shall be prepared by an architect licensed in Kansas and shall be submitted to the licensing agency prior to beginning construction. "Minor alterations" means those projects which do not affect the structural integrity of the building, which do not change functional operation, and which do not affect fire safety.

(2) Plans and specifications shall be submitted at the preliminary plan and outline specification stage and at the contract document stage.

(3) The preliminary plans shall include:

(A) sketch plans of the basement, each floor, and the roof indicating the space assignment, size, and outline of fixed equipment;

(B) all elevations and typical sections;

(C) a plot plan showing roads and parking facilities; and

(D) areas and bed capacities by floors.

(4) The outline specifications shall consist of a general description of the construction, air conditioning, heating, and ventilation systems.

(5) Contract documents shall consist of working drawings that are complete and adequate for bidding, contract, and construction purposes. Specifications shall supplement the drawings to fully describe the types, sizes, capacities, workmanship, finishes, and other characteristics of all materials and equipment. The architect shall certify that contract documents are in compliance with subsections (a), (b), and (c) of this regulation.

(e) Access. Representatives of the licensing agency shall, at all reasonable times, have access to work in preparation or progress, and the contractor shall provide proper facilities for such access and inspection. A complete set of plans and specifications shall be available on the job site for use by licensing agency personnel. (Authorized by and implementing K.S.A. 65-431; effective May 1, 1986; amended, T-87-51, Dec. 19, 1986; amended May 1, 1987; amended Dec. 29, 1995.)

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017085

State of Kansas

Real Estate Commission

Permanent Administrative Regulations

Article 1.—EXAMINATION AND REGISTRATION

86-1-11. Minimum curricula and standards for course. (a) Each school offering a course approved by the commission under subsection (a) of K.S.A. 58-3046a, and amendments thereto, shall use a course syllabus provided by the commission and shall register such course under the title "Principles of Real Estate."

(b) Each school offering a course approved by the commission under subsection (b) of K.S.A. 58-3046a, and amendments thereto, shall use a course syllabus provided by the commission and shall register the course under the title "Broker Pre-License Course."

(c) The 12 hours of additional instruction required by subsection (c), paragraph (d)(2) and paragraph (e)(2) of K.S.A. 58-3046a, and amendments thereto, shall consist of courses approved by the commission.

(1) The hours required for each license renewal between January 1, 1996 and January 1, 1999 shall consist of at least three hours designated as mandatory core hours and no more than nine hours designated as elective hours.

(2) The hours required for each renewal of a salesperson's license after January 1, 1999 shall consist of at least three hours designated as mandatory core hours and no more than nine hours designated as elective hours.

(3) The hours required for each renewal of a broker's license after January 1, 1999 shall consist of at least six hours designated as mandatory core hours and no more than six hours designated as elective hours.

(4) On and after January 1, 1994, each course approved by the commission shall be designated, at the discretion of the commission, as either meeting a mandatory core requirement or as being elective hours.

(5) Each school offering a course approved by the commission to meet the mandatory core requirement pursuant to paragraphs (1) or (2) above shall use a course outline provided by the commission and shall register such course under the title "Brokerage Relationships in Real Estate Transactions."

(6) Each school offering a course approved by the commission to meet the mandatory core requirement pursuant to paragraph (3) above shall use a course outline on topics prescribed by the commission.

(7) Credit given to any licensee for a course submitted by the licensee pursuant to subsection (j) of K.S.A. 58-3046a, and amendments thereto, shall be designated by the commission as either meeting a mandatory core requirement or as being elective hours.

(8) A nonresident of Kansas may receive credit as elective hours for courses approved by the commission of the nonresident's state of residence. A nonresident may only receive credit for a mandatory core requirement for courses approved by the commission pursuant to paragraphs (4), (5), (6) or (7) above.

(9) Approved courses shall have a total instruction time of not less than three hours.

(10) Any licensee may receive a maximum of three hours credit during any renewal period for real estate appraisal courses designated as such by the commission and taken after January 1, 1992.

(d) Instruction required by paragraph (d)(1) of K.S.A. 58-3046a, and amendments thereto, shall include 30 hours of instruction designated by the commission as required hours and 20 hours elected by the licensee from courses approved by the commission pursuant to subsection (c) of this regulation.

(e) The 30 hours of instruction designated as required hours under subsection (d) and the 30 hours of instruction required by paragraph (e)(1) of K.S.A. 58-3046a, and amendments thereto, shall consist of a course registered under the title "Salesperson's Post-License Course" and schools offering the course shall use a course syllabus provided by the commission. (Authorized by K.S.A. 74-4202(b); implementing K.S.A. 58-3046a, as amended by L. 1995, Chap. 149, § 4; effective, T-86-31, Sept. 24, 1985; effective May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended May 1, 1988; amended Sept. 26, 1988; amended Nov. 18, 1991; amended Dec. 20, 1993; amended Dec. 29, 1995.)

Article 2.—AUTHORITY OF COMMISSION; PROCEDURE

86-2-4. (Authorized by K.S.A. 74-4202(b); implementing L. 1984, Ch. 313, Sec. 13; effective, T-86-31, Sept. 24, 1985; effective May 1, 1986; revoked Dec. 29, 1995.)

86-2-6. (Authorized by K.S.A. 74-4202(b); implementing L. 1984, Ch. 313, Sec. 36; effective, T-86-31, Sept. 24, 1985; effective May 1, 1986; revoked Dec. 29, 1995.)

Jean Duncan
Director

Doc. No. 017089

State of Kansas

Social and Rehabilitation Services

Permanent Administrative Regulations

Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

30-5-80. Scope of and reimbursement for medicaid home- and community-based services (HCBS). The scope of medicaid home- and community-based services shall consist of those services provided under the authority of the applicable federally-approved waiver to the Kansas medicaid state plan. (a) Medicaid home- and community-based services shall be provided to medicaid eligible recipients 16 years of age or older who are determined by individualized assessment to be qualified for nursing facility placement pursuant to K.A.R. 30-10-6, and who elect to receive the services specified in individualized written plans of care designed to prevent living in a nursing facility.

(b) Medicaid home- and community-based services shall consist of one or more of the services defined and

federally-approved in the medicaid home- and community-based waiver provided under a written plan of care.

(c) Medicaid home- and community-based services shall be provided in accordance with an individualized written plan of care approved in writing by the Kansas department of social and rehabilitation services. Each annual review and amendment of this plan shall be approved in the same fashion. This plan shall:

(1) Be based on needs identified during the screening assessment;

(2) specify each service to be provided and why each service was selected, or how each service will address any specific need identified by the assessment;

(3) specify the frequency and within what limits each service shall be provided;

(4) specify what other support services are required and the plan for obtaining them;

(5) be prepared in consultation with the recipient or the recipient's guardian, if one has been appointed;

(6) be approved in writing by the recipient or the recipient's guardian, as appropriate; and

(7) be reviewed at least annually and updated as necessary.

(d) Medicaid home- and community-based services shall be subject to the individual and aggregate expenditure limits applicable under the federally-approved waiver.

(e) Medicaid home- and community-based services for a recipient shall be terminated when the Kansas department of social and rehabilitation services determines that:

(1) The recipient no longer meets level of care criteria due to a change in the medical condition as determined by a physician;

(2) the recipient fails to cooperate with basic program requirements to the degree that the department's ability to deliver services is substantially impeded;

(3) the written plan of care no longer meets the tests of cost effectiveness, or a cost cap exception is not granted;

(4) no provider of essential services is available in the recipient's home location;

(5) the recipient enters a nursing facility for more than a planned brief stay;

(6) the recipient becomes no longer eligible for medicaid;

(7) the recipient requests termination of services; or

(8) the recipient dies.

(f) Reimbursement for medicaid home- and community-based services shall be based upon reasonable fees as related to customary charges, except no fee shall be paid in excess of the range maximum. The range of charges shall provide the base for computations.

(g) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective July 31, 1992; amended Dec. 29, 1995.)

30-5-81u. General hospital groups under the diagnosis related group (DRG) reimbursement system. (a) The Kansas department of social and rehabilitation services shall assign general hospitals participating in the Kansas medicaid/medikan program to one of three groups and shall annually notify in writing each general hospital of its group assignment.

(1) A general hospital assigned to group one shall be:

(A) Located within a metropolitan statistical area within the state of Kansas and have at least 200 general hospital inpatient beds;

(B) located within the state of Kansas and within 10 miles of a general hospital meeting the criteria set forth in subsection (a)(1)(A); or

(C) located outside of the state of Kansas or its border cities and have at least 200 general hospital inpatient beds.

(2) A general hospital assigned to group two shall be:

(A) Located within a metropolitan statistical area in the state of Kansas and have less than 200 general hospital inpatient beds or be located within a metropolitan statistical area in a border city;

(B) located outside of a metropolitan statistical area in the state of Kansas or its border cities and have at least 100 general hospital inpatient beds;

(C) located within 10 miles of a general hospital meeting the criteria set forth in subsection (a)(2)(A) or (B); or

(D) located outside of the state of Kansas or its border cities with at least 100 general hospital inpatient beds.

(3) A general hospital shall be assigned to group three if it does not meet the criteria pursuant to subsections (a)(1) or (a)(2) above.

(4) A general hospital shall be assigned to group one if it meets the criteria for assignment to both group one and group two.

(b) General hospital group assignments shall be redetermined annually by the department based upon the criteria in subsection (a). The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective July 1, 1989; amended Dec. 29, 1995.)

30-5-82. Scope of rural health clinic services. Rural health clinic services and other ambulatory services shall be provided in medically underserved rural areas, as determined by the census bureau, by medicare-certified rural health clinics. (a) A physician, advanced registered nurse practitioner, or physician's assistant shall provide rural health clinic services under the following conditions:

(1) A physician shall be available at least once every two weeks to supervise the delivery of services and to perform services not in the scope of practice of a registered physician's assistant or advanced registered nurse practitioner as defined in the Kansas statutes; and

(2) a physician shall be available at least every 60 days to review the plan of care established for each homebound patient.

(b) Covered services include the following:

(1) Services and related medical supplies routinely provided in a physician's office;

(2) other ambulatory services covered by medicaid;

(3) referral to other practitioners who are providers in the medicaid/medikan program for covered services that are not provided by the rural health clinic;

(4) home health nursing services and related medical supplies in the recipient's place of residence in areas where there is no home health agency. Nursing services shall be provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse. A written plan of treatment shall be established by a phy-

(continued)

sician, a physician's assistant, or an advanced registered nurse practitioner; and

(5) screening and appropriate referral for the "Kan Be Healthy" program.

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1981; amended Jan. 2, 1989; amended July 1, 1989; amended, T-30-1-2-90, Jan. 2, 1990; amended, T-30-2-28-90, Jan. 2, 1990; amended Dec. 29, 1995.)

30-5-86. Scope of services by community mental health centers. (a) Community mental health center services shall be available to program recipients in:

(1) Outpatient treatment programs licensed by mental health and retardation services;

(2) approved inpatient treatment programs;

(3) partial hospitalization programs approved by mental health and retardation services pursuant to K.A.R. 30-5-110 and certified to participate in medicare; and

(4) the recipient's private residence.

(b) (1) During a calendar year, outpatient psychotherapy shall be limited to 32 hours per recipient unless the recipient is a "Kan Be Healthy" program participant. Outpatient psychotherapy shall be limited to 40 hours per calendar year for each "Kan Be Healthy" program participant.

(2) Outpatient psychotherapy shall be covered, when medically necessary, and when provided concurrently with both targeted case management services and partial hospitalization services by the same provider.

(c) Four hours of psychological testing and evaluation shall be allowed every two consecutive calendar years for medicaid program recipients regardless of provider except that "Kan Be Healthy" program participants shall be allowed six hours. Admission evaluations shall not exceed five hours per calendar year and may include a physical examination.

(d) Inpatient psychotherapy shall be available pursuant to K.A.R. 30-5-81. Case conferences may be considered as individual therapy if they meet the definition in K.A.R. 30-5-58. Group therapy shall be reimbursable only if it is rendered on a day when group therapy has not been a part of partial hospitalization.

(e) Targeted case management services shall be limited to an amount per calendar year per recipient as specified by the secretary.

(f) Services shall be provided by a psychiatrist, a licensed psychologist with a doctoral degree or a registered master's level psychologist, master's degree social worker, master's degree psychiatric nurse, or individuals certified by the Kansas association of community mental health center directors' professional standards committee and approved by the agency, unless the approval is contrary to law or regulation.

(g) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; modified, L. 1983, ch. 361, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-29, Nov. 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Aug. 1, 1990; amended July 1, 1991; amended Oct. 1, 1992; amended Jan. 4, 1993; amended Dec. 29, 1995.)

30-5-94. Reimbursement for pharmacy services. (a) Pharmacy providers shall be reimbursed for covered pharmacy services on the basis of product acquisition cost plus a professional fee. The submitted charge and payment for covered over-the-counter pharmacy products shall not exceed the lesser of the product acquisition cost plus the professional fee or the usual and customary over-the-counter charge of the pharmacy provider.

(b) The acquisition cost shall include a maximum allowable cost reimbursement limitation for selected multiple source drugs determined by the Kansas department of social and rehabilitation services. The acquisition cost may be limited to a level as established by the secretary of the department.

(c) The professional fee assigned to pharmacy providers shall be the lesser of:

(1) The 85th percentile of allocated costs per prescription for all pharmacies filing a cost report as required by K.A.R. 30-5-95, plus a reasonable profit;

(2) the usual and customary fee charges of each individual pharmacy, as determined by the prescription survey section of the pharmacy cost report; or

(3) a rate as established by the secretary of the department.

(d) The department may elect to further limit the professional fee assignment of individual pharmacy providers through use of a multiple regression analysis based on cost study data from all pharmacy cost reports. Individual pharmacy providers with data which exceeds selected regression analysis norms by a factor greater than a standard deviation of 1.0 shall have allocated cost data relative to the selected norm limited to a value at a standard deviation of 1.0 above the norm.

(e) Completed cost reports, pursuant to the provisions of subsection (c), shall be due 90 days after notice from the department. Delinquent cost reports shall not be accepted after 105 days following notice from the department.

(f) Except as specified in section (g), pharmacies that have 250 or less prescription claims annually, acute care institutional pharmacies, and pharmacies that were in business for less than six months in the cost reporting period shall not file a cost report and shall be assigned professional fees determined from average cost data for all pharmacies that file a cost report.

(g) Pharmacy providers involved in a change of ownership shall be assigned a professional fee based on cost data from the previous owner's cost report, if submitted, and on weighted mean labor costs per prescription for all pharmacy providers that file a cost report. If the previous owner did not file a cost report, the professional fee shall be assigned pursuant to section (f).

(h) Pharmacies that are inactive pursuant to K.A.R. 30-5-59 shall be considered new pharmacies when re-activated.

(i) In areas where pharmacy services are not available, each physician dispensing prescriptions to program consumers shall be eligible to receive reimbursement for provision of those services after a pharmacy provider number has been issued by the department pursuant to K.A.R. 30-5-59.

(1) Physicians assigned a pharmacy provider number shall be reimbursed on the basis of product acquisition cost plus a professional fee of $1.00 per prescription.

(2) Payment shall not apply to injectible drugs not intended for self-administration by the patient except as included in the charge for the professional services of the physician.

(j) Reimbursement shall be made to the pharmacy provider only when the covered service has been prescribed by the consumer's attending practitioner.

(k) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended July 1, 1989; amended, T-30-1-2-90, Jan. 2, 1990; amended, T-2-28-90, Feb. 28, 1990; amended May 1, 1991; amended Dec. 29, 1995.)

30-5-95. Cost report requirement for pharmacy services. (a) The cost reports filed by pharmacy providers for professional fee determination shall reflect data which coincides with the immediate fiscal year used for federal income taxes that ends prior to the cost report filing due date, except in those cases where the provider is not required to file a federal income tax return. In such cases, the provider shall file a cost report from the official financial reporting records of the business.

(b) (1) A pharmacy shall have been in operation for at least six months in the cost reporting period and have submitted at least 250 medicaid prescription claims annually during the cost reporting period at fiscal year end, to file an initial cost report.

(2) Any Kansas pharmacy that fails or refuses to file a cost reports when required shall not be assigned a professional fee.

(3) Any pharmacy that does not receive a professional fee as a result of failure or refusal to file cost reports shall have a professional fee calculated and assigned following the completion of the next report as required by the department. The assignment of such a professional fee will take effect at the same time all professional fees of pharmacies are adjusted through the standard fee setting procedures of the department. If all pharmacy fees are not adjusted through the standard fee setting procedures of the department, the pharmacy shall be assigned a fee that corresponds to the average fee in effect at the time the pharmacy submits the cost report. The assignment of a fee to a pharmacy which previously failed or refused to file a cost report shall take effect at a date set by the secretary. There shall be no retroactive cost adjustment or settlement.

(c) Cost report and prescription survey forms, instructions, and notice of the requirement to file shall be prepared by the Kansas department of social and rehabilitation services and distributed to all pharmacy providers as required.

(d) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended July 1, 1989; amended May 1, 1991; amended April 1, 1992; amended Dec. 29, 1995.)

30-5-110. Scope of partial hospitalization programs. (a) Partial hospitalization services shall be provided in a community mental health center or a facility affiliated with a community mental health center. The only excepton to this is "Kan Be Healthy" program participants who may receive services in either an affiliated or non-affiliated partial hospitalization program.

(b) Supportive partial hospitalization services shall be limited to a specified number of hours per year.

(c) Partial hospitalization services provided by state institutions shall be exempt from any limitations of hours per recipient per calendar year.

(d) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1983; amended, T-84-7, May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended July 1, 1989; amended Aug. 1, 1990; amended Oct. 28, 1991; amended May 1, 1992; amended Dec. 29, 1995.)

30-5-153. Scope of physical therapist services. (a) Physical therapist services shall be covered for medicaid/medikan beneficiaries when provided by a physical therapist who:

(1) is certified by medicare; and

(2) meets requirements listed in K.A.R. 100-35-1 through K.A.R. 100-35-7.

(b) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 29, 1995).

30-5-153a. Reimbursement for physical therapist services. (a) Reasonable fees for customary charges shall be paid for physical therapist services except that no fee shall be paid in excess of the range maximum.

(b) The range of charges shall provide the base for the computation.

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 29, 1995.)

Article 6.—MEDICAL ASSISTANCE PROGRAM—CLIENT'S ELIGIBILITY FOR PARTICIPATION

30-6-103. Determined eligibles; protected income levels. (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for persons in independent living arrangements and in the home- and community-based services program shall be based on the total number of persons in the assistance plan and any other persons in the family group whose income is being considered.

(2) The protected income levels for independent living may also be used when an applicant or recipient:

(A) enters a medicaid-approved facility, except that this provision shall not apply in situations where only one spouse of a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed two months to allow for maintaining the applicant's or recipient's independent living arrangements.

(continued)

(3) Except as provided in paragraphs (4), (5), (6), (7) and (8) below, the following table shall be used to determine the protected income level for persons in independent living.

PERSONS IN INDEPENDENT LIVING
(Per Month)

1	2	3
$470.00	$475.00	$480.00

The protected income level for additional persons shall be the sum of the basic standard for a like public assistance family plus the maximum state shelter standard.

(4) In determining eligibility for pregnant women and for infants under the provisions of K.A.R. 30-6-77(a) and (b), 150 percent of the official federal poverty income guidelines shall serve as the protected income level.

(5) In determining eligibility for other young children under the provisions of K.A.R. 30-6-77(c), 133 percent of the official federal poverty income guidelines shall serve as the protected income level.

(6) In determining eligibility for older children under the provisions of K.A.R. 30-6-77(d), 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(7) In determining eligibility for poverty-level medicare beneficiaries under the provisions of K.A.R. 30-6-86, 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(8) In determining eligibility for working disabled individuals under the provisions of K.A.R. 30-6-87, 200 percent of the official federal poverty income guidelines shall serve as the protected income level.

(9) In determining eligibility for low income medicare beneficiaries under the provisions of K.A.R. 30-6-86, 120 percent of the official federal poverty income guidelines shall serve as the protected income level.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be $30.00, except as noted in paragraph (2) of subsection (a).

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-36, Dec. 21, 1983; amended May 1, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985; amended, T-86-19, July 1, 1985; amended, T-86-42, Jan. 1, 1986; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended, T-88-2, Feb. 1, 1987; amended May 1, 1987; amended, T-88-10, May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-3-29-90, April 1, 1990; revoked, T-30-7-2-90, July 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended Jan. 7, 1991; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991; amended Jan. 2, 1992; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Jan. 4, 1993; amended Jan. 3, 1994; amended Dec. 30, 1994; amended Dec. 29, 1995.)

30-6-103w. Determined eligibles; protected income levels. (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for persons in independent living arrangements and in the home- and community-based services program shall be based on the total number of persons in the assistance plan and any other persons in the family group whose income is being considered.

(2) The protected income levels for independent living may also be used when an applicant or recipient:

(A) enters a medicaid-approved facility, except that this provision shall not apply in situations where only one spouse of a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed two months to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as provided in paragraphs (4), (5), (6), (7) and (8) below, the following table shall be used to determine the protected income level for persons in independent living.

PERSONS IN INDEPENDENT LIVING
(Per Month)

1	2	3
$470.00	$475.00	$480.00

The protected income level for additional persons shall be the sum of the basic standard for a like public assistance family plus the maximum state shelter standard.

(4) In determining eligibility for pregnant women and for infants under the provisions of K.A.R. 30-6-77w(a) and (b), 150 percent of the official federal poverty income guidelines shall serve as the protected income level.

(5) In determining eligibility for other young children under the provisions of K.A.R. 30-6-77w(c), 133 percent of the official federal poverty income guidelines shall serve as the protected income level.

(6) In determining eligibility for older children under the provisions of K.A.R. 30-6-77w(d), 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(7) In determining eligibility for poverty-level medicare beneficiaries under the provisions of K.A.R. 30-6-86w, 100 percent of the official federal poverty income guidelines shall serve as the protected income level.

(8) In determining eligibility for working disabled individuals under the provisions of K.A.R. 30-6-87w, 200 percent of the official federal poverty income guidelines shall serve as the protected income level.

(9) In determining eligibility for low income medicare beneficiaries under the provisions of K.A.R. 30-6-86w, 120 percent of the official federal poverty income guidelines shall serve as the protected income level.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be $30.00, except as noted in paragraph (2) of subsection (a).

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective Dec. 30, 1994; amended Dec. 29, 1995.)

30-6-106. General rules for consideration of resources, including real property, personal property, and income. (a) Legal title shall determine ownership for assistance purposes. In the absence of legal title, possession shall determine ownership.

(b) Resources shall be of a nature that the value can be defined and measured. The objective measures set forth in paragraphs (1) and (2) below shall establish the resources' value.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property, which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant, recipient, or agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined using a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the agency and the individual, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) (1) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain, or unless the probability of success in the legal action would be minimal for the applicant or recipient.

(2) For SSI, real property shall be considered unavailable as long as it cannot be sold for one of the following reasons:

(A) The property is jointly owned and its sale would cause undue hardship because of the loss of housing for the other owner or owners; or

(B) the owner's reasonable efforts to sell the property have been unsuccessful.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly-owned real property and the full value of jointly-owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient demonstrates that:

(1) the applicant or recipient has no ownership interest in the resource;

(2) the applicant or recipient has not contributed to the resource; and

(3) any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(e) Nonexempt resources of all persons in the assistance plan and the nonexempt resources of persons who have been excluded from the assistance plan pursuant to K.A.R. 30-6-74(b) and K.A.R. 30-6-79(c) shall be considered in determining eligibility.

(f) (1) The combined resources of husband and wife, if they are living together, shall be considered in determining eligibility of either or both for the medical assistance program, unless otherwise prohibited by law.

(2) A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of either the husband or the wife for education, training, working, securing medical treatment or visiting shall not interrupt the period of time during which the couple is considered to be living together.

(3) A husband and wife shall not be considered to be living together when they are physically separated and not maintaining a common life, or when one or both enter into an institutional living arrangement, including either a medicaid-approved or non-approved medical facility or a home- and community-based services care arrangement.

(A) If only one spouse enters an institutional living arrangement, the provisions of subsection (m) below shall apply.

(B) If both spouses enter an institutional living arrangement, the combined resources of the husband and wife shall be considered available to both for the month in which the institutional arrangement begins.

(g) The resources of an ineligible parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the parent and child are living together, except that such resources shall not be considered for children in an institutional or home- and community-based services arrangement beginning with the month following the month the arrangement begins.

(h) When any individual in the household who does not have the responsibility to support a person in the plan voluntarily and regularly contributes cash to the recipient toward household expenses, including maintenance costs, the amount of the contribution to be counted shall be the net income realized by the household.

(i) Despite subsections (e), (f), and (g) above, the resources of an SSI beneficiary shall not be considered in the determination of eligibility for medical assistance of any other person.

(j) The conversion of real and personal property from one form to another shall not be considered to be income to the applicant or recipient, except for the proceeds from a contract for the sale of property.

(k) Income shall not be considered to be both income and property in the same month.

(l) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered in determining eligibility.

(m) When one spouse enters an institutional living arrangement and the other spouse remains in the community, and an application for medical assistance is made on behalf of the institutionalized spouse, the following provisions apply.

(1) The separate income of each spouse shall not be considered available to the other beginning in the month the institutional arrangement begins. Unless otherwise

(continued)

established, ½ of the income which is paid in the names of both spouses shall be considered available to each. Income which is paid in the name of either spouse, or in the name of both spouses and the name of another person or persons, shall be considered available to each spouse in proportion to the spouse's interest, unless otherwise established.

(2) A monthly income allowance for the community spouse shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements. The income allowance for the community spouse, when added to the income already available to that spouse, shall not exceed 150 percent of the official federal poverty income guideline for two persons plus the amount of any excess shelter allowance. The excess shelter allowance shall be defined as the amount by which the community spouse's expenses for rent or mortgage payments, taxes and insurance for the community spouse's principal residence, plus the food stamp standard utility allowance, exceeds 30 percent of 150 percent of the federal poverty income guideline amount referred to above. The maximum monthly income allowance which can be provided under this provision shall be $1,500.00. The $1,500.00 limitation shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September, 1988 and the September before the calendar year involved. If a greater income allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(3) A monthly income allowance for each dependent family member shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements.

(A) A dependent family member is defined as a minor or dependent child, dependent parent or dependent sibling of either spouse who lives with the community spouse.

(B) The allowance for each member shall be equal to ⅓ of 150 percent of the official federal poverty income guideline for two persons.

(C) An allowance shall not be provided if the family member's gross income is in excess of 150 percent of the federal poverty income guideline for two persons.

(4) If the spouse is institutionalized on or after September 30, 1989, the real and personal property of both spouses shall be considered in determining the eligibility of the institutionalized spouse, based on the amount of property in excess of the community spouse property allowance as set forth in paragraph (m) (6) below whether or not such allowance will be made.

(A) If the excess property is within the allowable resource standards of K.A.R. 30-6-107, the institutionalized spouse shall be eligible.

(B) In the month following the first month of eligibility for the institutionalized spouse, only the property of the institutionalized spouse shall be considered available in determining continuing eligibility, except for property to be transferred in accordance with paragraph (m)(6) below.

(5) If the spouse was institutionalized before September 30, 1989, the real and personal property of each spouse shall be considered available to the other in the month in which the institutional arrangement began. Thereafter, the property of each spouse shall not be considered available to the other.

(6) The institutionalized spouse may make available to the community spouse a property allowance which, when added to the property already available to the community spouse, would be equal to ½ of the total value of the property owned by both spouses as of the first period of continuous institutionalization beginning on or after September 30, 1989.

(A) This allowance shall not exceed $60,000.00, and shall be no less than $12,000.00. Both the $12,000.00 and $60,000.00 standards shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September 1988 and the September before the calendar year involved.

(B) If a greater property allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(7) The amount of property received by the community spouse as a result of the property allowance determined in paragraph (m)(6) shall not be considered in determining the eligibility of the institutionalized spouse, except as provided in paragraph (m)(4) above. If the institutionalized spouse will be eligible based upon transferring sufficient property to the community spouse to equal the amount of the property allowance, the institutionalized spouse shall be given up to 90 days from the date of application to transfer the property. Additional time may be allowed for good cause. Pending disposition of the property, the institutionalized spouse shall be eligible during this time period if all other eligibility factors are met.

(n) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c and 39-709, as amended by L. 1994, Chapter 265, Sec. 8; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended, T-87-20, Sept. 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended April 1, 1990; amended, T-30-10-1-90, Oct. 1, 1990; revoked, T-30-11-29-90, Jan. 2, 1991; amended Jan. 7, 1991; amended, T-30-12-28-90, Jan. 2, 1991; amended, T-30-3-1-91, March 1, 1991; amended May 1, 1991; amended July 1, 1991; amended, T-30-8-9-91, Aug. 30, 1991; amended Oct. 28, 1991; amended Jan. 2, 1992; amended, T-30-6-10-92, July 1, 1992; amended Oct. 1, 1992; amended Jan. 4, 1993; amended Oct. 1, 1993; amended, T-30-11-16-93, Dec. 1, 1993; amended Jan. 3, 1994; amended Feb. 6, 1995; amended Dec. 29, 1995.)

30-6-106w. General rules for consideration of resources, including real property, personal property, and

income. (a) Legal title shall determine ownership for assistance purposes. In the absence of legal title, possession shall determine ownership.

(b) Resources shall be of a nature that the value can be defined and measured. The objective measures set forth in paragraphs (1) and (2) below shall establish the resources' value.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property, which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant, recipient, or agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined by using a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the agency and the individual, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) (1) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain, or unless the probability of success in the legal action would be minimal for the applicant or recipient.

(2) For SSI, real property shall be considered unavailable as long as it cannot be sold for one of the following reasons:

(A) the property is jointly owned and its sale would cause undue hardship because of the loss of housing for the other owner or owners; or

(B) the owner's reasonable efforts to sell the property have been unsuccessful.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly-owned real property and the full value of jointly-owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient demonstrates that:

(1) the applicant or recipient has no ownership interest in the resource;

(2) the applicant or recipient has not contributed to the resource; and

(3) any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(e) Nonexempt resources of all persons in the assistance plan shall be considered in determining eligibility.

(f) (1) The combined resources of husband and wife, if they are living together, shall be considered in determining eligibility of either or both for the medical assistance program, unless otherwise prohibited by law.

(2) A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of either the husband or the wife for education, training, working, securing medical treatment or visiting shall not interrupt the period of time during which the couple is considered to be living together.

(3) A husband and wife shall not be considered to be living together when they are physically separated and not maintaining a common life, or when one or both enter into an institutional living arrangement, including either a medicaid-approved or non-approved medical facility or a home- and community-based services care arrangement.

(A) If only one spouse enters an institutional living arrangement, the provisions of subsection (m) below shall apply.

(B) If both spouses enter an institutional living arrangement, the combined resources of the husband and wife shall be considered available to both for the month in which the institutional arrangement begins.

(g) The resources of an ineligible parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the parent and child are living together, except that such resources shall not be considered for children in an institutional or home- and community-based services arrangement beginning with the month following the month the arrangement begins.

(h) When any individual in the household who does not have the responsibility to support a person in the plan voluntarily and regularly contributes cash to the recipient toward household expenses, including maintenance costs, the amount of the contribution to be counted shall be the net income realized by the household.

(i) Despite subsections (e), (f), and (g) above, the resources of an SSI beneficiary shall not be considered in the determination of eligibility for medical assistance of any other person.

(j) The conversion of real and personal property from one form to another shall not be considered to be income to the applicant or recipient, except for the proceeds from a contract for the sale of property.

(k) Income shall not be considered to be both income and property in the same month.

(l) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered in determining eligibility.

(m) When one spouse enters an institutional living arrangement and the other spouse remains in the community, and an application for medical assistance is made on behalf of the institutionalized spouse, the following provisions apply.

(1) The separate income of each spouse shall not be considered available to the other beginning in the month the institutional arrangement begins. Unless otherwise established, ½ of the income which is paid in the names of both spouses shall be considered available to each. Income which is paid in the name of either spouse, or in the name of both spouses and the name of another person or persons, shall be considered available to each spouse in proportion to the spouse's interest, unless otherwise established.

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(2) A monthly income allowance for the community spouse shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements. The income allowance for the community spouse, when added to the income already available to that spouse, shall not exceed 150 percent of the official federal poverty income guideline for two persons plus the amount of any excess shelter allowance. The excess shelter allowance shall be defined as the amount by which the community spouse's expenses for rent or mortgage payments, taxes and insurance for the community spouse's principal residence, plus the food stamp standard utility allowance, exceeds 30 percent of 150 percent of the federal poverty income guideline amount referred to above. The maximum monthly income allowance which can be provided under this provision shall be $1,500.00. The $1,500.00 limitation shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September 1988 and the September before the calendar year involved. If a greater income allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(3) A monthly income allowance for each dependent family member shall be deducted from the income of the institutionalized spouse in determining the amount of patient liability for persons in institutional living arrangements or spenddown for persons in home- and community-based services arrangements.

(A) A dependent family member is defined as a minor or dependent child, dependent parent or dependent sibling of either spouse who lives with the community spouse.

(B) The allowance for each family member shall be equal to ⅓ of 150 percent of the official federal poverty income guideline for two persons.

(C) An allowance shall not be provided if the family member's gross income is in excess of 150 percent of the federal poverty income guideline for two persons.

(4) If the spouse is institutionalized on or after September 30, 1989, the real and personal property of both spouses shall be considered in determining the eligibility of the institutionalized spouse, based on the amount of property in excess of the community spouse property allowance as set forth in paragraph (m) (6) below, whether or not such allowance will be made.

(A) If the excess property is within the allowable resource standards of K.A.R. 30-6-107w, the institutionalized spouse shall be eligible.

(B) In the month following the first month of eligibility for the institutionalized spouse, only the property of the institutionalized spouse shall be considered available in determining continuing eligibility, except for property to be transferred in accordance with paragraph (m)(6) below.

(5) If the spouse was institutionalized before September 30, 1989, the real and personal property of each spouse shall be considered available to the other in the month in which the institutional arrangement began. Thereafter, the property of each spouse shall not be considered available to the other.

(6) The institutionalized spouse may make available to the community spouse a property allowance which, when added to the property already available to the community spouse, would be equal to ½ of the total value of the property owned by both spouses as of the first period of continuous institutionalization beginning on or after September 30, 1989.

(A) This allowance shall not exceed $60,000.00, and shall be no less than $12,000.00. Both the $12,000.00 and $60,000.00 standards shall be increased at the beginning of each calendar year by the same percentage as the percentage increase in the consumer price index for all urban consumers between September 1988 and the September before the calendar year involved.

(B) If a greater property allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(7) The amount of property received by the community spouse as a result of the property allowance determined in paragraph (m)(6) shall not be considered in determining the eligibility of the institutionalized spouse, except as provided in paragraph (m)(4) above. If the institutionalized spouse will be eligible based upon transferring sufficient property to the community spouse to equal the amount of the property allowance, the institutionalized spouse shall be given up to 90 days from the date of application to transfer the property. Additional time may be allowed for good cause. Pending disposition of the property, the institutionalized spouse shall be eligible during this time period if all other eligibility factors are met.

(n) The resources of an alien sponsor and the sponsor's spouse shall be considered in determining eligibility for the alien. "Sponsor" shall include a public or private agency or organization.

(o) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708; effective Dec. 30, 1994; amended Feb. 6, 1995; amended Dec. 29, 1995.)

Article 10.—ADULT CARE HOME PROGRAM

30-10-1a. Nursing facility program definitions. (a) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Accrual basis of accounting" means that revenue of the provider is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Active treatment for individuals with mental retardation or related condition" means a continuous program for each client, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services that is directed towards:

(A) the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(B) the prevention or deceleration of regression or loss of current optimal functional status.

(3) "Agency" means the department of social and rehabilitation services.

(4) "Ancillary services and other medically necessary services" means those special services or supplies, in addition to routine services, for which charges are made.

(5) "Case mix" means a measure of the intensity of care and services used by a group of residents in a facility.

(6) "Case mix index" means a numeric score with a specific range that identifies the relative resources used by a particular group of residents and represents the average resource consumption across a population or sample.

(7) "Change of ownership" means a transfer of rights and interests in real and personal property used for nursing facility services through an arms-length transaction between unrelated persons or legal entities.

(8) "Change of provider" means a change of ownership or lessee specified in the provider agreement.

(9) "Common ownership" means that an entity holds a minimum of five percent ownership or equity in the provider facility and in the company engaged in business with the provider facility.

(10) "Control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(11) "Cost and other accounting information" means adequate data, including source documentation, that is accurate, current, and in sufficient detail to accomplish the purposes for which it is intended. Source documentation, including petty cash pay out memoranda and original invoices, shall be valid only if it originated at the time and near the place of the transaction. In order to provide the required cost data, the provider shall maintain financial and statistical records in a manner that is consistent from one period to another. This requirement shall not preclude a beneficial change in accounting procedures when there is a compelling reason to effect a change of procedures.

(12) "Cost finding" means recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(13) "Costs not related to resident care" means costs which are not appropriate, necessary or proper in developing and maintaining the nursing facility operation and activities. These costs are not allowable in computing reimbursable costs.

(14) "Costs related to resident care" means all necessary and proper costs, arising from arms-length transactions in accordance with general accounting rules, which are appropriate and helpful in developing and maintaining the operation of resident care facilities and activities. Specific items of expense shall be limited pursuant to K.A.R. 30-10-23a, K.A.R. 30-10-23b, K.A.R. 30-10-23c, K.A.R. 30-10-24, K.A.R. 30-10-25, K.A.R. 30-10-26, K.A.R. 30-10-27 and K.A.R. 30-10-28.

(15) "Cost report" means the nursing facility financial and statistical report.

(16) "Educational activities" means an approved, formally organized or planned program of study usually engaged in by providers in order to enhance the quality of resident care in an institution. These activities shall be licensed when required by state law.

(17) "Educational activities—net cost" means the cost of approved educational activities less any grants, specific donations or reimbursements of tuition.

(18) "Hospital-based nursing facility" means a nursing facility as defined in K.A.R. 30-10-1a that is attached to or associated with a hospital.

(19) "Inadequate care" means any act or failure to act which may be physically or emotionally harmful to a recipient.

(20) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that is typically associated with either a distressing symptom or impairment of function. Relevant diagnoses shall be limited to schizophrenia, major affective disorders, atypical psychosis, bipolar disorder, paranoid disorders or schizoaffective disorder.

(21) "Mental retardation" means subaverage general intellectual functioning which originates in the developmental period and which is associated with an impairment in adaptive behavior.

(22) "Non-working owners" means any individual or organization having five percent or more interest in the provider who does not perform a resident-related function for the nursing facility.

(23) "Non-working related party or director" means any related party as defined in K.A.R. 30-10-1a who does not perform a resident-related function for the nursing facility.

(24) "Nursing facility (NF)" means a facility which meets state licensure standards and which provides health-related care and services, prescribed by a physician, to residents who require 24-hours-per-day, seven-days-per-week, licensed nursing supervision for ongoing observation, treatment, or care for long-term illness, disease, or injury.

(25) "Nursing facility for mental health" means a nursing facility which meets state licensure standards and provides structured mental health rehabilitation services, in addition to health-related care, for individuals with a severe and persistent mental illness who require 24-hours-per-day, seven-days-per-week, licensed nursing supervision. The nursing facility shall have been operating in accordance with a provider agreement with social and rehabilitation services on June 30, 1994.

(26) a providers designation as an "on-going entity" means a change in the provider has not been recognized.

(27) "Organization costs" means those costs directly incidental to the creation of the corporation or other form of legal business entity. These costs shall be considered to be intangible assets representing expenditures for rights and privileges which have value to the business.

(28) "Owner-related party compensation" means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with a five percent or greater interest in the provider or any related party as defined in K.A.R. 30-10-1a, whether the payment is from a sole proprietorship, partnership, corporation, or non-profit organization.

(29) "Owner" means the person or legal entity that has the rights and interests of the real and personal property used to provide the nursing facility services.

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(30) "Plan of care for nursing facilities" means a document which states the need for care, the estimated length of the program, the methodology to be used, and the expected results.

(31) "Projected cost report" means a cost report submitted to the agency by a provider prospectively for a 12-month period of time. The projected cost report shall be based on an estimate of the costs, revenues, resident days, and other financial data for that 12-month period of time.

(32) "Provider" means the operator of the nursing facility specified in the provider agreement.

(33) "Recipient" means a person determined to be eligible for medicaid/medikan services in a nursing facility.

(34) "Related parties" refers to any relationship between two or more parties in which one party has the ability to influence another party to the transaction in the following manner:

(A) one or more of the transacting parties might fail to pursue the parties' own separate interests fully;

(B) the transaction is designed to inflate medicaid/medikan costs. Related parties shall include parties related by family, business or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arms-length negotiations; or

(C) any party considered a related party to a previous owner or operator, becomes the employee, or otherwise functions in any capacity on behalf of a subsequent owner or operator.

(35) "Related to the nursing facility" means that the facility is significantly associated or affiliated with, has control of, or is controlled by the organization furnishing the services, facilities, or supplies.

(36) "Representative" means either of the following:

(A) a legal guardian, conservator or representative payee as designated by the social security administration; or

(B) any person designated in writing by the resident to manage the resident's personal funds, and who is willing to accept the designation.

(37) "Resident assessment form" means the document which:

(A) is jointly specified by the Kansas department of health and environment and the agency;

(B) is approved by the health care finance administration; and

(C) includes the minimum data set.

(38) "Resident day" means that period of service rendered to a patient or resident between census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any medicaid/medikan or non-medicaid/medikan resident who was not in the home. Census-taking hours shall consist of 24 hours beginning at midnight.

(39) "Routine services and supplies" means services and supplies that are commonly stocked for use by or provided to any resident. The services and supplies shall be included in the provider's cost report.

(40) "Sale-leaseback" is a transaction where an owner sells a facility to a related or non-related purchaser and then leases the facility from the new owner to operate as the provider.

(41) "Severe and persistent mental illness" means that an individual:

(A) meets one of the following criteria:

(i) the individual has undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime;

(ii) the individual has experienced a single episode of continuous, structured supportive residential care other than hospitalization for a duration of at least two months; and

(B) meets at least two of the following criteria, on a continuing or intermittent basis, for at least two years:

(i) the individual is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history;

(ii) the individual requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help;

(iii) the individual shows severe inability to establish or maintain a personal social support system;

(iv) the individual requires help in basic living skills; or

(v) the individual exhibits inappropriate social behavior which results in a need for intervention by the mental health or judicial system.

(42) "Specialized mental health rehabilitation services" means one of the specialized rehabilitative services which provides ongoing treatment for mental health problems aimed at attaining or maintaining the highest level of mental and psychosocial well-being. The specialized rehabilitative services include the following:

(A) crisis intervention services;

(B) drug therapy or monitoring of drug therapy;

(C) training in medication management;

(D) structured socialization activities to diminish tendencies toward isolation and withdrawal;

(E) development and maintenance of necessary daily living skills, including grooming, personal hygiene, nutrition, health and mental health education, and money management; and

(F) maintenance and development of appropriate personal support networks.

(43) "Specialized services" means inpatient psychiatric care for the treatment of an acute episode of mental illness.

(44) "Swing bed" means a hospital bed that can be used interchangeably as either a hospital bed or nursing facility bed.

(45) "Twenty-four hour nursing care" means the provision of 24-hour licensed nursing services with the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

(46) "Working trial balance" means the summary from the provider's general ledger that was used in completing the cost report.

(b) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991;

amended April 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995.)

30-10-1b. Nursing facilities. (a) The nursing facility program shall include the following types of care facilities:

(1) nursing facilities; and

(2) nursing facilities for mental health which shall have been operating in accordance with a provider agreement with the agency on June 30, 1994.

(b) Change of provider.

(1) The current provider or prospective provider shall notify the agency in writing by certified mail of a proposed change of providers at least 60 days in advance of the closing transaction date. If the current or prospective provider fails to submit a timely notification, the new provider shall assume responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such overpayment.

(2) Before the dissolution of the provider business entity, or a transaction involving a change of ownership of the nursing facility or the change of lessee of the nursing facility, the provider shall notify the agency in writing at least 60 days before the change. If the provider fails to submit a timely notification the new provider shall assume responsibility for any overpayment made to the previous provider before the transfer. This shall not release the previous provider of responsibility for such overpayment. Other overpayment recovery terms may be expressly agreed to in writing by the secretary.

(3) The provider shall submit an application to be a provider of services to the agency for any addition or substitution to a partnership or any change of provider resulting in a completely new partnership. An application shall not be required when a partnership is dissolved and at least one member of the partnership remains as the provider of services.

(4) If a sole proprietor, not incorporated under applicable state law, transfers title and property to another party, a change of ownership shall have occurred. The new owner shall submit to the agency an application to be a provider of services.

(5) A transfer of participating provider corporate stock shall not constitute a change of provider.

(6) A merger of one or more corporations with the participating provider corporation surviving shall not constitute a change of provider.

(7) A consolidation of two or more unrelated corporations which creates a new corporate entity through an arms-length transaction shall constitute a change of provider. The new corporate entity resulting from the consolidation shall submit an application to be a provider of services to the agency.

(8) The change or creation of a new lessee through an arms length transaction between unrelated persons or legal entities, acting as a provider of services, shall constitute a change of provider. The new lessee shall submit an application to be a provider of services to the agency on forms prescribed by the secretary:

(A) if the lessee of the facility purchases the facility, the purchase shall not constitute a change of provider;

(B) the change or creation of a sublessee, acting as the provider of services, shall not constitute a change of provider;

(C) if the old owner of a facility sells the facility and then leases it back from the new owner, the creation of the lease between the old owner and the new owner shall not constitute a change of provider. The old owner shall be treated as an on-going entity; or

(D) if the old lessee and new lessee are related parties, it shall not constitute a change of provider.

(9) The change or creation of a management firm, acting as the provider of services, shall not constitute a change of provider.

(10) Only changes or creations of a provider of service through bona fide transactions or agreements shall be recognized.

(11) An owner of the real and personal property shall not be considered a new provider when the owner takes over the operations from a lessee. In this situation, the facility shall be treated as an on-going entity.

(c) Each new provider shall be subject to a certification survey by the department of health and environment. If certified, the period of certification shall be established by the Kansas department of health and environment.

(d) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995.)

30-10-2. Standards for participation; nursing facilities and nursing facilities for mental health. (a) As a prerequisite for participation in the medicaid/medikan program as a provider of nursing facility services, each nursing facility shall:

(1) provide nursing services;

(2) meet the requirements of Title IV, subtitle C, part 2, pp 190-230, of the federal omnibus budget reconciliation act of 1987, effective October 1, 1990, which is adopted by reference;

(3) be certified for participation in the program for all licensed beds by the Kansas department of health and environment or the federal department of health and human services;

(4) have been operating with a provider agreement with the agency on June 30, 1994 if the certification is for a nursing facility for mental health;

(5) submit an application for participation in the program on forms prescribed by the secretary;

(6) update provided information as required by the application forms;

(7) within 30 days of any request, furnish full and complete ownership information concerning any subcontractor with whom the provider has had business transactions in an aggregate amount exceeding $25,000.00 during the previous 12 months;

(8) furnish and allow inspection of any information that the agency, its designee, or the department of health

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and human services may request in order to assure proper payment by the medicaid/medikan program;

(9) inform all new residents of the availability of potential eligibility assessment under the federal spousal impoverishment law. The assessment shall be completed by the area or local agency offices;

(10) for each resident, submit to the agency a copy of the resident assessment form;

(A) The initial assessment shall be conducted during the first seven days of admission, completed by the eighth day of admission, and submitted to the agency within 14 days of admission;

(B) a second assessment shall be completed between day 30 and day 44 of admission and submitted to the agency within 51 days of admission;

(C) a full quarterly reassessment shall be completed at least every 90 days and shall be submitted to the agency within seven days of completion. The annual reassessment shall substitute for one quarterly assessment;

(D) a significant change reassessment shall be completed within 14 days after determination that such a change has occurred and shall be submitted to the agency within seven days of completion;

(E) a reassessment upon return from a hospital stay of more than 72 hours shall be performed within 14 days of the return and shall be submitted within 21 days of the return;

(F) a significant change reassessment, or reassessment on return from a hospital may be used to meet the requirement for the quarterly reassessment;

(G) resident assessment forms may be submitted on paper, computer disc or by electronic transmission. A resident assessment form shall be timely submitted if the nursing facility mails the paper or computer disc or sends an electronic transmission;

(H) an extension of no more than one month may be obtained for good cause, if approved by the agency. The requests shall be in writing and shall be received by the agency before the submission date. Requests received after the due date shall not be approved;

(I) Penalty for non-submission of assessment forms.

(i) If 10 percent or more of a facility's assessments are not completed and submitted as required, all further payments to the provider shall be suspended until the forms have been completed and submitted. Thirty days before suspending payment to a provider, written notice which states the agency's intent to suspend payments, shall be sent by the agency to the provider. The notice shall explain the basis for the agency's determination and shall explain the necessary corrective action that must be taken before payments are reinstated;

(ii) incorrectly completed assessments shall be returned to the facility for correction through an edit check letter. This letter and request for correction shall be returned to the agency within 14 days from date of notification; and

(J) any assessment that cannot be classified shall be assigned to the lowest classification group; and

(11) provide non-emergency transportation.

(b) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective, E-74-43, Aug. 16, 1974; effective, E-74-63, Dec. 4, 1974; effective May 1, 1975; amended, E-76-34, July 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended, E-78-35, Dec. 30, 1977; amended May 1, 1978; amended, E-80-13, Aug 8, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995.)

30-10-15a. Reimbursement. Payment for services. (a) Providers with a current signed provider agreement shall be paid a per diem rate for services furnished to medicaid/medikan eligible residents. Payment shall be for the type of medical or health care required by the beneficiary as determined by the attending physician's or physician extender's certification upon admission. However, payment for services shall not exceed the type of care the provider is certified to provide under the medicaid/medikan program. The type of care required by the beneficiary may be verified by the agency before and after payment.

(b) Payment for routine services and supplies, pursuant to K.A.R. 30-10-1a, shall be included in the per diem reimbursement and such services and supplies shall not be otherwise billed or reimbursed.

(1) The following durable medical equipment, medical supplies and other items and services shall be considered routine for each resident to attain and maintain the highest practicable physical and psychosocial well-being in accordance with the comprehensive assessment and plan of care and shall not be billed or reimbursed separately from the per diem rate:

(A) Alternating pressure pads and pumps;
(B) armboards;
(C) bedpans, urinals and basins;
(D) bed rails, beds, mattresses and mattress covers;
(E) canes;
(F) commodes;
(G) crutches;
(H) denture cups;
(I) dialysis, including supplies and maintenance;
(J) dressing items, including applicators, tongue blades, tape, gauze, bandages, band-aids, pads and compresses, ace bandages, vaseline gauze, cotton balls, slings, triangle bandages, pressure pads and tracheostomy care kits;
(K) emesis basins and bath basins;
(L) enemas and enema equipment;
(M) facial tissues and toilet paper;
(N) footboards;
(O) footcradles;
(P) gel pads or cushions;
(Q) geri-chairs;
(R) gloves, rubber or plastic;
(S) heating pads;
(T) heat lamps and examination lights;
(U) humidifiers;
(V) ice bags and hot water bottles;
(W) intermittent positive pressure breathing (IPPB) machines;

(X) I.V. stands and clamps;
(Y) laundry, including personal laundry;
(Z) lifts;
(AA) nebulizers;
(BB) occupational therapy;
(CC) oxygen masks, stands, tubing, regulators, hoses, catheters, cannulae and humidifiers;
(DD) parenteral and enteral infusion pumps;
(EE) patient gowns, pajamas and bed linens;
(FF) physical therapy;
(GG) restraints;
(HH) sheepskins and foam pads;
(II) speech therapy;
(JJ) sphygmomanometers, stethoscopes and other examination equipment;
(KK) stretchers;
(LL) suction pumps and tubing;
(MM) syringes and needles, except insulin syringes and needles for diabetics that are covered by the pharmacy program;
(NN) thermometers;
(OO) traction apparatus and equipment;
(PP) underpads and adult diapers, disposable and non-disposable;
(QQ) walkers;
(RR) water pitchers, glasses and straws;
(SS) weighing scales;
(TT) wheelchairs;
(UU) irrigation solution, both water and normal saline;
(VV) lotions, creams and powders, including baby lotion, oil and powders;
(WW) first-aid type ointments;
(XX) skin antiseptics such as alcohol;
(YY) antacids;
(ZZ) mouthwash;
(AAA) over-the-counter analgesics;
(BBB) laxatives;
(CCC) stool softeners;
(DDD) nutritional supplements;
(EEE) blood glucose monitors and supplies;
(FFF) extra nursing care and supplies;
(GGG) compressors;
(HHH) orthoses and splints to prevent or correct contractures;
(III) maintenance care for residents who have head injuries;
(JJJ) non-emergency transportation; and
(KKK) respiratory therapy.

(2) Urinary supplies. Urinary catheters and accessories shall be covered services in the medicaid/medikan program when billed through the durable medical equipment or medical supply provider. This expense shall not be reimbursed in the per diem rate of the cost report

(3) Nutritional therapy. In order to qualify for reimbursement, total nutritional replacement therapy shall require prior authorization.

(4) Medications not covered by the medicaid pharmacy program, over-the-counter drugs/supplies and/or personal comfort items which are regularly available without prescription at a commercial pharmacy or medical supply outlet and which may be stocked by the facility shall be routine.

(5) For medicare-certified facilities, medical services or a designee shall adjust the cost of occupational, physical, respiratory and speech therapy by both the ratio of medicaid units of service to total units of service and the ratio of total resident days to medicaid days. The facility shall report the total expense on the cost report and the total of medicaid units of service in an attachment. Medical services or a designee shall calculate the adjustment if the provider does not provide the required information, the medicare revenue shall be offset against the expense, but not below zero.

(c) Providers of ancillary services, as defined in K.A.R. 30-10-1a, shall bill separately for the services when the services or supplies are required. Payment for oxygen shall be reimbursed to the oxygen supplier through the agency's fiscal agent, or the fiscal agent may reimburse the nursing facility directly if an oxygen supplier is unavailable.

(d) Payment for specialized rehabilitative services or active treatment programs shall be included in the per diem reimbursement.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the medicaid/medikan program.

(f) Payment shall not be made for allowable non-routine services and items unless the provider has obtained prior authorization.

(g) Private rooms for recipients shall be covered when medically necessary or at the discretion of the facility, and the costs shall be reflected in the facility's cost report. If a private room is not medically necessary or is not occupied at the discretion of the facility, a family member, guardian, conservator or other third party may pay the difference between the usual and customary charge and the medicaid payment rate.

(h) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995.)

30-10-17. Cost reports. (a) Historical cost data.

(1) For cost reporting purposes, each provider shall submit the nursing facility financial and statistical report in accordance with the December, 1995 version of the "instructions for completing the nursing facility financial and statistical report (MS-2004)," which is hereby adopted by reference.

(2) Each provider who has operated a facility for 12 or more months as of December 31st shall file the nursing facility financial and statistical report on a calendar year basis.

(3) Each provider who has operated a facility on cost data from the previous provider or a projected cost report shall file an historical cost report.

(A) The historical cost report shall begin on the first day of the month closest to the date the new provider or

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facility is certified by the department of health and environment.

(B) The historical cost report shall end on the last day of the 12-month period following the date specified in paragraph (A), except:

(i) The cost report shall end on December 31st when that date is not more than one month before or after the end of the 12-month period;

(ii) the cost report shall end on the provider's normal fiscal year end used for the internal revenue service when that date is not more than one month before or after the end of the 12-month period and the criteria for filing the cost report ending on December 31st does not apply; or

(iii) the cost report shall end on the last date of service if a provider change occurs before 11 months of operation and the interim rate was based on a projected cost report.

(C) The historical cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(D) A subsequent overlapping 12-month historical cost report shall be filed for the calendar year ending December 31st, if the first cost report does not end on that date.

(b) Projected cost data.

(1) Projected cost reports for providers.

(A) If a provider is required to submit a projected cost report under subsection (c), (d) or (g) of K.A.R. 30-10-18, the provider's rate shall be based on a proposed budget with costs projected on a line item basis.

(B) The projected cost report shall begin on the first day of the month closest to the date that the provider, who meets the criteria for filing a projected cost report, is certified by the department of health and environment.

(C) The projected cost report shall end on the last day of the 12-month period following the date specified in paragraph (B), except:

(i) The projected cost report shall end on December 31st when that date is not more than one month before or after the end of the 12-month period; or

(ii) the projected cost report shall end on the provider's normal fiscal year-end used for the internal revenue service when that date is not more than one month before or after the end of the 12-month period and the criteria for filing the projected cost report ending on December 31st does not apply.

(D) The projected cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(E) The projected cost report shall be reviewed for reasonableness and appropriateness by the agency. The projected cost report items that are determined to be unreasonable shall be disallowed before the projected rate is established.

(2) Projected cost reports for each provider with more than one facility.

(A) Each provider required to file a projected cost report in accordance with this subsection and who operates more than one facility, either in-state or out-of-state, shall allocate central office costs to each facility being paid rates from the projected cost data at the end of the provider's fiscal or calendar year that ends during the projection period.

(B) The method of allocating central office costs to those facilities on projection status shall be consistent with the method used to allocate such costs to those facilities in the chain who are filing historical cost reports.

(c) Amended cost reports.

(1) Each provider shall submit amended cost reports revising cost report information previously submitted when the error or omission is material in amount and results in a change in the provider's rate of $.10 or more per resident day.

(2) An amended cost report shall not be allowed after 13 months have passed since the last day of the year covered by the report.

(d) Due dates of cost reports.

(1) Calendar year cost reports shall be received not later than the close of business on the last working day of February following the year covered by the report.

(2) Historical cost reports covering the projection status period shall be received by the agency not later than the close of business on the last working day of the second month following the close of the period covered by the report.

(3) Cost reports approved for a filing extension in accordance with K.A.R. 30-10-17(e) shall be received not later than the close of business on the last working day of the month approved for the extension request.

(e) Extension of time for submitting a cost report.

(1) A one-month extension of the due date for the filing of a cost report may be granted by the agency when the cause for delay is beyond the control of the provider. Delays beyond the control of the provider that may be considered by the agency in granting an extension shall include the following:

(A) disasters that significantly impair the routine operations of the facility or business;

(B) destruction of records as a result of a fire, flood, tornado or other accidents that are not reasonably foreseeable; and

(C) computer viruses that impair the accurate completion of cost report information.

(2) The request shall be in writing and shall be received by the agency before the due date of the cost report. Requests received after the due date shall not be accepted.

(3) A written request for a second one-month extension may be granted by the medicaid/medikan director when the cause for further delay is beyond the control of the provider. The request shall be received by the agency before the due date of the cost report or it shall not be approved.

(f) Penalty for late filing. Each provider filing a cost report after the due date shall be subject to the following penalties.

(1) If the cost report has not been received by the agency by the close of business on the due date, all further payments to the provider shall be withheld and suspended until the complete nursing facility financial and statistical report has been received.

(2) Failure to submit cost information within one year after the end of the cost report period shall be cause for termination from the medicaid/medikan program.

(g) Balance sheet requirement. Each provider shall file a balance sheet prepared in accordance with cost report

instructions as part of the cost report forms for each provider.

(h) Working trial balance requirement. Each provider shall submit a working trial balance with the cost report. The working trial balance shall contain account numbers, descriptions of the accounts, the amount of each account, and the cost report expense line on which the account was reported. The working trial balance shall reconcile to the cost report schedules.

(i) An allocation of expenditures between the hospital and the long-term care unit facility shall be submitted through a step-down process prescribed in the cost report instructions.

(j) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995.)

30-10-18. Rates of reimbursement. (a) Rates for existing nursing facilities.

(1) The determination of per diem rates shall be made, at least annually, on the basis of the cost information submitted by the provider and retained for cost auditing. The cost information for each provider shall be compared with other providers that are similar in size, scope of service and other relevant factors to determine the allowable per diem cost.

(2) Per diem rates shall be limited by cost centers, except where there are special level of care facilities approved by the United States department of health and human services. The limits shall be determined by the median in each cost center plus a percentage of the median. The percentage factor applied to the median shall be determined by the secretary.

(A) The cost centers shall be as follows:

(i) administration;

(ii) property;

(iii) room and board; and

(iv) health care.

(B) The property cost center limit shall consist of the plant operating costs and an adjustment for the real and personal property fees.

(C) The base health care cost center limit shall be calculated on the statewide average case mix index determined from the classified resident assessments:

(i) the health care cost center limit for each facility shall be calculated by adjusting the base limit by that facility's average case mix; and

(ii) resident assessments that cannot be classified shall be assigned to the lowest case mix index.

(D) The percentile limits shall be determined from an annual array of the most recent historical costs of each provider in the data base.

(3) To establish a per diem rate for each provider, a factor for incentive and inflation shall be added to the allowable per diem cost.

(4) Resident days in the rate computation.

(A) Each provider which has been in operation for 12 months or longer and has an occupancy rate of less than 85 percent for the cost report period shall have the resident days calculated at the minimum occupancy of 85 percent.

(B) The 85 percent minimum occupancy rule shall be applied to the resident days and costs reported for the 13th month of operation and after. The 85 percent minimum occupancy requirement shall be applied to the interim rate of a new provider unless the provider is allowed to file a projected cost report.

(C) The minimum occupancy rate shall be determined by multiplying the total number of licensed beds by 85 percent. In order to participate in the medicaid/medikan program, each nursing facility provider shall obtain proper certification for all licensed beds.

(D) Each provider with an occupancy rate of 85 percent or greater shall have actual resident days for the cost report period used in the rate computation.

(5) Each provider shall be given a detailed listing of the computation of the rate determined for the provider's facility.

(6) The effective date of the rate for existing providers shall be in accordance with K.A.R. 30-10-19.

(b) Comparable service rate limitations.

(1) For each nursing facility and nursing facility for mental health, the per diem rate for care shall not exceed the rate charged for the same type of service to residents not under the medicaid/medikan program.

(2) The agency shall maintain a registry of private pay rates submitted by providers.

(A) Providers shall notify the agency of changes in the private pay rate and the effective date of that change so that the registry can be updated.

(i) Private pay rate information submitted with the cost reports shall not constitute notification and shall not be acceptable; and

(ii) providers may send private pay rate notices by certified mail so that there is documentation of receipt by the agency.

(B) The private pay rate registry shall be updated based on the notification from the providers.

(C) The effective date of the private pay rate in the registry shall be the later of the effective date of the private pay rate or the first day of the following month in which complete documentation of the private pay rate is received by the agency.

(i) If the private pay rate effective date is other than the first day of the month, the effective date in the registry shall be the first day of the closest month. If the effective date is after the 15th, the effective date in the register shall be the first day of the following month.

(ii) For new facilities or new providers coming into the medicaid program, the private pay rate effective date shall be the issued certification date.

(3) The average private pay rate for comparable services shall be included in the registry. The average private pay rate may consist of the following variables:

(A) A differential for a private room may be included in the average private pay rate when medicaid/medikan residents are placed in a private room at no extra charge

(continued)

and the private room is not medically necessary. In these cases, the private pay rate shall be determined using the weighted average of the private pay rates for residents in both private and semi-private rooms. If medicaid residents are not in private rooms or they are being charged extra for the private room, then the private room rate shall not be included in determining an average private pay rate.

(B) Extra charges for ancillaries, routine supplies and other items included in the medicaid/medikan rate may be included in the average private pay rate.

(C) If a level of care system is used to determine the average private pay rate, the level of care used to compute the private pay rate shall be that which best characterizes the entire medicaid/medikan population in the facility. Additional level of care change information shall be submitted on forms prescribed by the agency. An average private pay rate shall be based on the weighted average of the medicaid/medikan population reflected in the additional information.

(4) The average private pay rate shall be based on what the provider reasonably expects to receive from the resident. If the private pay charges are consistently higher than what the provider receives from the residents for services, then the average private pay rate for comparable services shall be based on what is actually received from the residents.

(5) The private pay rate for medicare skilled beds shall not be included in the computation of the average private pay rate for nursing facility services.

(6) When providers are notified of the effective date of the medicaid/medikan rate, the following procedures shall be followed:

(A) If the private pay rate indicated on the agency register is lower, then the medicaid/medikan rate, beginning with its effective date, shall be lowered to the private pay rate reflected on the registry; and

(B) providers who are held to a lower private pay rate and subsequently notify the agency by certified mail of a different private pay rate, shall have the medicaid/medikan rate adjusted on the later of the first day of the month following the date upon which complete private pay rate documentation is received or the effective date of a new private pay rate.

(c) Rate for new construction or new facility to the program.

(1) The per diem rate for newly constructed nursing facilities or a new facility to the medicaid/medikan program shall be based on a projected cost report submitted in accordance with K.A.R. 30-10-17.

(2) No rate shall be paid until a nursing facility financial and statistical report is received and processed to determine a rate.

(d) Change of provider. The payment rate for the first 12 months of operation shall be based on the rate established from the historical cost data of the previous owner or provider. If the 85 percent minimum occupancy requirement was applied to the previous provider's rate, the 85 percent minimum occupancy requirement shall also be applied to the new provider's rate.

(e) Per diem rate errors.

(1) When the per diem rate, whether based upon projected or historical cost data, is audited by the agency and found to contain an error, a direct cash settlement shall be required between the agency and the provider for the amount of money overpaid or underpaid. If a provider no longer operates a facility with an identified overpayment, the settlement shall be recouped from a facility owned or operated by the same provider or provider corporation unless other arrangements have been made to reimburse the agency. A net settlement may occur when a provider has more than one facility involved in settlements.

(2) The per diem rate for a provider may be increased or decreased as a result of a desk review or audit on the provider's cost reports. Written notice of this per diem rate change and of the audit findings shall be sent to the provider. Retroactive adjustment of the rate paid from a projected cost report shall apply to the same period of time covered by the projected rate.

(3) Each provider shall have 30 days from the date of the audit report cover letter to request an administrative review of an audit adjustment that results in an overpayment or underpayment. The request shall specify the finding or findings that the provider wishes to have reviewed.

(4) An interim settlement, based on a desk review of the historical cost report covering the projected cost report period, may be determined after the provider is notified of the new rate determined from the cost report. The final settlement shall be based on the rate after an audit of the historical cost report.

(5) A new provider that is not allowed to submit a projected cost report for an interim rate shall not be entitled to a retroactive settlement for the first year of operation.

(f) Out-of-state providers. The rate for out-of-state providers certified to participate in the Kansas medicaid/medikan program shall be the rate approved by the agency. Out-of-state providers shall obtain prior authorization by the agency.

(g) Determination of the rate for nursing facility providers re-entering the medicaid program.

(1) The per diem rate for each provider re-entering the medicaid program shall be determined from:

(A) a projected cost report in those cases where the provider has not actively participated in the program by the submission of any current resident service billings to the program for 24 months or more; or

(B) the last historic cost report filed with the agency, if the provider has actively participated in the program during the most recent 24 months. The appropriate historic and estimated inflation factors shall be applied to the per diem rate determined in accordance with this paragraph.

(2) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(A) of this subsection, a settlement shall be made in accordance with K.A.R. 30-10-18(e).

(3) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(B) of this subsection, a settlement shall be made only on those historic cost reports with fiscal years beginning

after the date on which the provider re-entered the program.

(h) Approved reserved days as specified in K.A.R. 30-10-21 shall be paid at sixty-seven percent of the medicaid/medikan per diem rate.

(i) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1986; amended, T-87-29, Nov. 1, 1986; amended May 1, 1987; amended, T-89-5, Jan. 21, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended July 1, 1994; amended Sept. 30, 1994; amended Dec. 29, 1995.)

30-10-19. Rates; effective dates. (a) Effective date of per diem rates for on-going providers filing calendar year cost reports. The effective date of a new rate that is based on information and data in the nursing facility cost report for the calendar year shall be the following July 1st.

(b) Effective date of the per diem rate for a new provider operating on the rate from cost data of the previous provider.

(1) The effective date of the per diem rate for a new provider shall be the date of certification by the department of health and environment.

(2) The rate effective date of the first historical cost report filed in accordance with K.A.R. 30-10-17 shall be the first day of the month following the end of the cost reporting period. Any rates paid after the effective date of the rate based on the first historical cost report shall be adjusted to the new rate from the historical cost report.

(c) Effective date of the per diem rate from a projected cost report.

(1) The effective date of the per diem rate from a projected cost report for a new provider, as set forth in subsections (c), (d), and (g) of K.A.R. 30-10-18, shall be the date of certification by the department of health and environment.

(2) The interim rate determined from the projected cost report filed by the provider shall be established with the fiscal agent by the first day of the third month after the receipt of a complete workable cost report.

(3) The effective date of the final rate, determined after an audit of the historical cost report filed for the projected cost report period, shall be the date of certification by the department of health and environment.

(4) The second effective date for a provider filing an historic cost report covering a projected cost report period shall be the first day of the month following the last day of the period covered by the report. This is the date that the inflation factor is applied in determining prospective rates.

(d) Effective August 1, 1995, providers shall receive a new rate based on the case mix adjustment. Providers shall receive new rates quarterly based on changes in the average case mix for the facility from previously submitted assessments.

(e) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995.)

30-10-23a. Non-reimbursable costs. (a) Costs not related to resident care, as set forth in K.A.R. 30-10-1a, shall not be considered in computing reimbursable costs. In addition, the following expenses or costs shall not be allowed:

(1) Fees paid to non-working directors and the salaries of non-working officers;

(2) bad debts;

(3) donations and contributions;

(4) fund-raising expenses;

(5) taxes, as follows:

(A) Federal income and excess profit taxes, including any interest or penalties paid thereon;

(B) state or local income and excess profits taxes;

(C) taxes from which exemptions are available to the provider;

(D) taxes on property which is not used in providing covered services;

(E) taxes levied against any patient or resident and collected and remitted by the provider;

(F) self-employment taxes applicable to individual proprietors, partners, or members of a joint venture; and

(G) interest or penalties paid on federal and state payroll taxes;

(6) insurance premiums on lives of officers and owners;

(7) the imputed value of services rendered by non-paid workers and volunteers;

(8) utilization review;

(9) costs of social, fraternal, civic, and other organizations which concern themselves with activities unrelated to their members' professional or business activities;

(10) oxygen;

(11) vending machine and related supplies;

(12) board of director costs;

(13) resident personal purchases;

(14) barber and beauty shop expenses;

(15) advertising for patient utilization;

(16) public relations expenses;

(17) penalties, fines, and late charges;

(18) prescription drugs;

(19) dental services;

(20) radiology;

(21) lab work;

(22) items or services provided only to non-medicaid/medikan residents and reimbursed from third party payors;

(23) automobiles and related accessories in excess of $25,000.00 each. Buses and vans for resident transportation shall be reviewed for reasonableness and may exceed $25,000.00 in costs;

(24) provider or related party owned, leased or chartered airplanes and related expenses;

(25) therapeutic beds;

(26) bank overdraft charges or other penalties;

(continued)

(27) personal expenses not directly related to the provision of long-term resident care in a nursing facility;

(28) management fees paid to a related organization that are not clearly derived from the actual cost of materials, supplies, or services provided directly to an individual nursing facility;

(29) business expenses not directly related to the care of residents in a long-term care facility. This includes business investment activities, stockholder and public relations activities, and farm and ranch operations; and

(30) legal and other costs associated with litigation between a provider and a resident or between a provider and state or federal agencies, unless the litigation is decided in the provider's favor.

(b) Purchase discounts, allowances, and refunds shall be deducted from the cost of the items purchased. Refunds of prior years' expenses shall be deducted from the related expenses.

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1988; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991; amended Oct. 28, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995.)

30-10-23b. Costs allowed with limitations. (a) The following amortized expenses or costs shall be allowed with limitations:

(1) The provider shall amortize loan acquisition fees and standby fees over the life of the related loan if the loan is related to resident care.

(2) Only the taxes specified below shall be allowed as amortized costs:

(A) Taxes in connection with financing, re-financing, or re-funding operations; and

(B) special assessments on land for capital improvements over the estimated useful life of those improvements.

(3) Any start-up cost of a provider with a newly constructed facility shall be recognized if it is:

(A) Incurred before the opening of the facility and related to developing the ability to care for clients;

(B) amortized over a period of at least 60 months;

(C) consistent with the facility's federal income tax return, and internal and external financial reports, with the exception of (B) above; and

(D) identified in the cost report as a start-up which may include the following:

(i) Administrative and nursing salaries;

(ii) utilities;

(iii) taxes, as identified in (2)(A) and (B);

(iv) insurance;

(v) mortgage interest;

(vi) employee training costs; and

(vii) any other allowable costs incidental to the operation of the facility.

(4) Any cost which can properly be identified as organization expense or can be capitalized as construction expense shall be appropriately classified and excluded from start-up cost.

(5) Organization and other corporate costs, as defined in K.A.R. 30-10-1a, of a provider that is newly organized shall be amortized over a period of at least 60 months beginning with the date of organization.

(A) The costs shall be reasonable and limited to the preparation and filing of documents required by the various governmental entities, the costs of preparing sale or lease contracts, and the associated legal and professional fees.

(B) The costs shall not include expenses of resolving contested issues of title or disputes arising from the performance of contracts or agreements related to the purchase or sale of a property or business.

(b) Membership dues and costs incurred as a result of membership in professional, technical, or business-related organizations shall be allowable. However, similar expenses set forth in paragraph (a)(9) of K.A.R. 30-10-23a shall not be allowable.

(c) The provider shall include costs associated with services, facilities, and supplies furnished to the nursing facility by related parties, as defined in K.A.R. 30-10-1a, in the allowable cost of the facility at the actual cost to the related party, except that the allowable cost to the nursing facility provider shall not exceed the lower of the actual cost or the market price.

(d) When a provider pays an amount in excess of the market price for supplies or services, the agency shall use the market price to determine the allowable cost under the medicaid/medikan program in the absence of a clear justification for the premium.

(e) The net cost of job related training and educational activities shall be an allowable cost. This includes the net cost of "orientation" and "on-the-job training."

(f) Resident-related transportation costs shall include only reasonable costs that are directly related to resident care and substantiated by detailed, contemporaneous expense and mileage records. Transportation costs only remotely related to resident care shall not be allowable. Estimates shall not be acceptable.

(g) Lease payments.

(1) Lease payments shall be reported in accordance with the financial accounting statements of the Financial Accounting Standards Board.

(2) Sale-leaseback transactions shall have the costs limited to the amount which the provider would have included in reimbursable costs had they retained legal title to the facilities and equipment. These costs include mortgage interest, taxes, depreciation, insurance and maintenance costs. The lease cost shall not be allowable if it exceeds the ownership costs prior to the sale-leaseback transaction.

(h) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Dec. 29, 1995.)

30-10-24. Compensation of owners, related parties and administrators. (a) Non-working owners and related parties. Remunerations paid to non-working owners or other related parties, as defined in K.A.R. 30-10-1a, shall

not be considered an allowable cost regardless of the name assigned to the transfer or accrual or the type of provider entity making the payment. Each payment shall be separately identified and reported as owner compensation in the non-reimbursable and non-resident related expense section of the cost report.

(b) Services related to resident care.

(1) If owners with five percent or more ownership interest or related parties actually perform a necessary function directly contributing to resident care, a reasonable amount shall be allowed for such resident care activity. The reasonable amount allowed shall be the lesser of:

(A) The reasonable cost that would have been incurred to pay a non-owner employee to perform the resident-related services actually performed by owners or other related parties, limited by a schedule of salaries and wages based on the state civil service salary schedule in effect when the cost report is processed until the subsequent cost report is filed; or

(B) the amount of cash and other assets actually withdrawn by the owner or related parties.

(2) The resident-related functions shall be limited to those functions which are normally performed by non-owner employees common to the industry and for which cost data is available. The job titles for administrative and supervisory duties performed by an owner or related party shall be limited to the work activities included in the schedule of the owner or related party salary limitations.

(3) The salary limit shall be prorated in accordance with subsection (c) of this regulation. The limitation shall not exceed the highest salary limit on the civil-service-based chart.

(4) The owner or related party shall be professionally qualified for those functions performed which require licensure or certification.

(5) Cash and other assets actually withdrawn shall include only those amounts or items actually paid or transferred during the cost reporting period in which the services were rendered and reported to the internal revenue service.

(6) The owner or related party shall pay any liabilities established in cash within 75 days after the end of the accounting period.

(c) Allocation of owner or related party total work time for resident-related functions. When any owner or related party performs a resident-related function for less than a full-time-equivalent work week, defined as 40 hours per week, the compensation limit shall be pro-rated. The time spent on each function within a facility or within all facilities in which they have an ownership or management interest shall be pro-rated separately by function, but shall not exceed 100 percent of that person's total work time. Time spent on other non-related business interests or work activities shall not be included in calculations of total work time.

(d) Reporting owner or related party compensation on cost report. The provider shall report owner or related party compensation on the owner compensation line in the appropriate cost center for the work activity involved. Any compensation paid to employees who have an ownership interest of five percent or more, including employees at the central office of a chain organization, shall be owner compensation. Providers with professionally qualified owner or related party employees performing duties other than those for which they are professionally qualified shall report the cost for such duties in the administrative cost center.

(e) Owner-administrator compensation limitation.

(1) Reasonable limits shall be determined by the agency for owner-administrator compensation based upon the current civil service salary schedule.

(2) This limitation shall apply to the salaries of each administrator and co-administrator of that facility and to owner compensation reported in the administrative cost center of the cost report. This limitation shall apply to the salaries of the administrator and co-administrator, regardless of whether they have any ownership interest in the business entity.

(3) Each salary in excess of the owner or related party limitations determined in accordance with subsections (b) and (c) of this regulation shall be transferred to the owner compensation line in the administrative cost center and shall be subject to the owner-administrator compensation limitation. The provider shall include all owner-administrator compensation in excess of the limitation in the administrative costs used to compute the incentive factor.

(f) Management consultant fees. Fees for consulting services provided by owners and related parties shall be considered owner's compensation subject to the owner-administrator compensation limit. The provider shall report fees on the owner compensation line in the administrative cost center if the actual cost of the service is not submitted with the adult care home financial and statistical report:

(1) Related parties as defined in K.A.R. 30-10-1a;

(2) current owners of the provider agreement and operators of the facility;

(3) current owners of the facility in a lessee-lessor relationship;

(4) management consulting firms owned and operated by former business associates of the current owners in this and other states;

(5) owners who sell and enter into management contracts with the new owner to operate the facility; and

(6) accountants, lawyers and other professional people who have common ownership interests in other facilities, in this or other states, with the owners of the facility from which the consulting fee is received.

(g) Costs not related to resident care. An allowance shall not be made for costs related to investigation of investment opportunities, travel, entertainment, goodwill, administrative or managerial activities performed by owners or other related parties that are not directly related to resident care.

(h) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991, amended Oct. 28, 1991; amended Dec. 29, 1995.)

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30-10-25. Real and personal property fee. (a) The agency shall determine a real and personal property fee in lieu of an allowable cost for ownership or lease expense, or both. The real and personal property fee shall equal the sum of the property allowance determined under subsection (b) and the property value factor determined under subsection (c). The fee shall be facility-specific and shall not change as a result of change of ownership or lease by providers on or after July 18, 1984. An inflation factor may be applied to the fee on an annual basis.

(b)(1) The property allowance shall include an appropriate component for:

(A) Rent or lease expense;

(B) interest expense on real estate mortgage;

(C) amortization of leasehold improvements; and

(D) depreciation on buildings and equipment, calculated pursuant to subsection (d).

(2) The property allowance shall be subject to a program maximum. Percentile limitations shall be established, based on an array of the costs on file with the agency as of July 18, 1984.

(c) The property value factor shall be computed as follows.

(1) The agency shall determine the sum of the components under paragraph (b)(1) for each facility, based on costs on file with the agency as of July 18, 1984. These sums shall be placed in an array, and percentile groupings shall be developed from that array.

(2) The agency shall determine the average property allowance for each percentile grouping under paragraph (1).

(3) The average property allowance for each percentile grouping shall be multiplied by a percentage as established by the secretary.

(d)(1) The depreciation component of the property allowance shall be:

(A) Identifiable and recorded in the provider's accounting records;

(B) based on the historical cost of the asset as established in this regulation; and

(C) prorated over the estimated useful life of the asset using the straight-line method.

(2)(A) Appropriate recording of depreciation shall include the following:

(i) Identification of the depreciable assets in use;

(ii) the assets' historical costs;

(iii) the method of depreciation;

(iv) the assets' estimated useful life; and

(v) the assets' accumulated depreciation.

(B) Gains and losses on the sale of depreciable personal property shall be reflected on the cost report at the time of the sale. Trading of depreciable property shall be recorded in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets shall not be recognized in the year of trade but shall be used to adjust the basis of the newly acquired property.

(3) For depreciation purposes, the cost basis for a facility acquired after July 17, 1984 shall be the lesser of the acquisition cost to the holder of record on that date, or the purchase price of the asset. The cost basis shall not include costs attributable to the negotiation or final purchase of the facility, including legal fees, accounting fees, travel costs and the cost of feasibility studies.

(e)(1) Providers may request a property fee rebasing if the following capital expenditure thresholds are met:

(A) $25,000.00 for facilities with 50 or fewer beds; or

(B) $50,000.00 for facilities with 51 or more beds.

(2) The per diem from the interest or depreciation, amortization, or both, from the capital expenditures, reported in the ownership cost center of the cost report, shall be added to the property allowance per diem originally established. Interest expense reported in the administrative cost center of the cost report shall not be included in the rebasing request.

(3) Resident days used in the denominator of the property allowance calculation shall be based on the total resident days used to compute the rate being paid at the time the property rebasing is requested. The resident days shall be subject to the 85 percent minimum occupancy requirement, including new beds documented in the rebasing request.

(4) The revised property allowance shall be used to determine the property value factor. The revised property value factor shall be based on the existing arrays. The skilled nursing facility array shall be used for medicare skilled nursing facilities. The nursing facility array shall be used for all other facilities.

(5) Effective dates for rebased property fees:

(A) If new beds are added to a facility because of a construction project, the rebased property fee shall be effective on the date that the beds are certified by the department of health and environment.

(B) If the capital expenditure being rebased is not related to increased numbers of beds, the effective date of the rebased property fee shall be the first day of the month closest to the date upon which complete documentation has been received by the agency. Documentation includes the following:

(i) The depreciation/amortization schedule reflecting the expense;

(ii) the loan agreement;

(iii) the amortization schedule for interest;

(iv) invoices;

(v) contractor fees; and

(vi) proof of other costs associated with the capital expenditure.

(6) A property fee rebasing shall not be allowed if the request and documentation are submitted more than one year after the property subject to the rebasing has been acquired and put into service.

(f) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995.)

30-10-27. Central office costs. (a) Allocation of central office costs shall be reasonable, conform to general

accounting rules, and allowed only to the extent that the central office is providing a service normally available in the nursing facility. Central office costs shall not be recognized or allowed to the extent that they are unreasonably in excess of similar nursing facilities in the program. The burden of furnishing sufficient evidence to establish a reasonable level of costs shall be on the provider. All expenses reported as central office costs shall be limited to the actual resident-related costs of the central office.

(1) The provider shall report cost of ownership or the arms-length lease expense, utilities, maintenance, property taxes, insurance, and other plant operating costs of the central or regional office space for resident-related activities report as central office costs.

(2) The provider shall report all administrative expenses incurred by central and regional offices as central office costs. These include the following:

(A) salaries;
(B) benefits;
(C) office supplies;
(D) printing, management and consultant fees;
(E) telephones and other forms of communications;
(F) travel and vehicle expenses;
(G) allowable advertising;
(H) licenses and dues; and
(I) legal, accounting, data processing, insurance, and interest expenses. These costs shall not be directed to individual facilities operated by the provider or reported on any other line of the cost report.

(3) Non-reimbursable costs in K.A.R. 30-10-23a, costs allowed with limitations in K.A.R. 30-10-23b, and the revenue offsets in K.A.R. 30-10-23c shall apply to central office costs.

(4) Estimates of central office costs shall not be allowable.

(b) Central office salary and other limitations.

(1) Salaries of employees performing the duties for which they are professionally qualified shall be allocated to the room and board and health care cost centers as appropriate for the duties performed. Professionally qualified employees include licensed and registered nurses, dietitians, and others as may be designated by the secretary.

(2) Salaries of chief executives, corporate officers, department heads, and other employees with ownership interests of five percent or more shall be owner's compensation and the provider shall report these salaries as owner's compensation in the administrative cost center.

(3) The provider shall include the salary of an owner or related party performing a resident-related service for which such person is professionally qualified in the appropriate cost center for that service, subject to the owner-related parties salary limitations.

(4) The provider shall report salaries of all other central office personnel performing resident-related administrative functions in the administrative cost center.

(5) All providers operating a central office shall complete and submit detailed schedules of all salaries and expenses incurred in each fiscal year. Failure to submit detailed central office expenses and allocation methods shall result in an incomplete cost report. The provider shall submit methods for allocating costs to all facilities in this and other states for prior approval. Changes in these methods shall not be permitted without prior approval.

(6) A central office cost limit may be established by the agency within the overall administrative cost center limit.

(7) The provider may allocate and report bulk purchases by the central office staff for plant operating, room and board, and health care supplies in the appropriate cost center of each facility if sufficiently documented. Questionable allocations shall be transferred to the central office cost line within the administrative cost center.

(c) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Dec. 29, 1995.)

30-10-29. Reimbursement for 24-hour nursing care. Nursing facilities participating in the medicaid/medikan program shall be reimbursed for providing 24-hour nursing care subject to the following limitations. (a) Nursing facilities which are currently providing 24-hour nursing care and whose costs are included in the current payment rate shall not be entitled to additional reimbursement.

(b) Nursing facilities which incur the costs of professional nurses' services for an additional evening or night shift seven days per week, but who do not have these costs included in the facility's payment rate, shall be reimbursed for these costs. Professional nurses may be registered nurses or licensed practical nurses. The additional costs of the nurses include salaries, employer payroll taxes, and related employee benefits.

(1) The reimbursement shall be limited to the evening and night shifts, 16 hours per day, seven days per week. Any provider may request reimbursement for either shift after partial compliance is met or for both shifts after full compliance is met.

(2) A reimbursement factor for 24-hour nursing care shall be provided in addition to a nursing facility's current medicaid rate and may exceed the health care cost center limit.

(3) The per diem factor shall be determined after the nursing facility submits the required forms and documentation.

(4) Required documentation includes copies of payroll records reflecting the names of nurses hired and the nurses' salary costs.

(5) If the forms and documentation are received after the effective date of the hiring, a retroactive rate adjustment shall be made back to the effective date of employment.

(6) Nursing facilities shall only be reimbursed once for each of the evening or night shifts covered by professional nurses. If a provider loses either shift coverage after receiving the additional 24-hour nursing reimbursement factor, the costs incurred to come back into compliance shall be reflected in the cost report and per diem rate.

(7) Resident days used in the denominator of the 24-hour nursing reimbursement calculation shall be based

(continued)

on the actual resident days from the last nursing facility financial and statistical report submitted. The resident days shall not be subject to the 85 percent minimum occupancy factor.

(8) The 24-hour nursing reimbursement factor shall be reduced as related expenses are reflected in the cost reports.

(9) The provision for 24-hour nursing reimbursement shall not include the cost of contract labor incurred through the use of nursing pool services or other sources. The intent of the 24-hour nursing provision shall be to reimburse the provider for the cost of the professional nurse hired in an employee/employer relationship. The cost of contract labor for nurses shall be an allowable cost reported in the nursing facility financial and statistical report and subsequently reflected in the per diem rate, subject to upper payment limits.

(10) The provision for 24-hour nursing reimbursement shall not include the cost of nurses on the day shift.

(c) This provision shall expire for requests received after December 31, 1995.

(d) The effective date of this regulation shall be December 29, 1995. (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective, T-86-42, Dec. 18, 1985; effective, T-87-5, May 1, 1986; effective May 1, 1987; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Dec. 29, 1995.)

Article 23.—PARSONS STATE HOSPITAL AND TRAINING CENTER, WINFIELD STATE HOSPITAL AND TRAINING CENTER, NORTON STATE HOSPITAL AND KANSAS NEUROLOGICAL INSTITUTE

30-23-1. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-3. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 76-12a07; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; amended May 1, 1979; revoked Dec. 29, 1995.)

30-23-6. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-7. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-8. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 76-12a07, 76-17c02; implementing K.S.A. 76-12a06; effective Jan. 1, 1967; amended May 1, 1975; amended May 1, 1984; revoked Dec. 29, 1995.)

30-23-9. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-10. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-11. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-12. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-13. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 76-12a07, 76-17c02; effective Jan. 1, 1967; amended Jan. 1, 1970; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-14. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 75-3304, 76-1411, 76-1617, 76-17c02; effective Jan. 1, 1967; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-15. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 75-3304; effective Jan. 1, 1967; amended Jan. 1, 1969; amended Jan. 1, 1974; amended May 1, 1975; revoked Dec. 29, 1995.)

30-23-17. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1974 Supp. 75-3304; effective May 1, 1975; revoked Dec. 29, 1995.)

Article 26.—LARNED STATE HOSPITAL, OSAWATOMIE STATE HOSPITAL, RAINBOW MENTAL HEALTH FACILITY, TOPEKA STATE HOSPITAL AND THE STATE SECURITY HOSPITAL

30-26-5. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1973 Supp. 75-3304; effective Jan. 1, 1967; revoked Dec. 29, 1995.)

30-26-6. This rule and regulation shall be revoked on and after December 29, 1995. (Authorized by K.S.A. 1973 Supp. 75-3304; effective Jan. 1, 1967; revoked Dec. 29, 1995.)

Rochelle Chronister
Secretary of Social and Rehabilitation Services

Doc. No. 017081

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AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-38-1	Amended	V. 14, p. 676

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-1	Amended	V. 14, p. 1014
102-1-4	Amended	V. 14, p. 488
102-1-5	Amended	V. 14, p. 488
102-1-10	Amended	V. 14, p. 1015
102-1-13	Amended	V. 14, p. 1016
102-2-3	Amended	V. 14, p. 1016
102-3-2	Amended	V. 14, p. 1016
102-4-1	Amended	V. 14, p. 489
102-4-2	Amended	V. 14, p. 1016
102-4-4	Amended	V. 14, p. 490
102-4-5	Amended	V. 14, p. 490
102-4-6	Amended	V. 14, p. 491
102-4-7	Revoked	V. 14, p. 492
102-4-10	Amended	V. 14, p. 492
102-5-2	Amended	V. 14, p. 1016
102-6-1	New	V. 14, p. 796
102-6-2	New	V. 14, p. 797
102-6-4	New	V. 14, p. 797
102-6-5	New	V. 14, p. 797
102-6-8	New	V. 14, p. 798
102-6-9	New	V. 14, p. 798
102-6-10	New	V. 14, p. 798
102-6-11	New	V. 14, p. 799
102-6-12	New	V. 14, p. 799

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-10-1	Amended	V. 14, p. 1242

AGENCY 111: KANSAS LOTTERY

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-5	Amended	V. 13, p. 1045
111-2-1	Amended	V. 14, p. 311
111-2-2	Amended	V. 12, p. 1261
111-2-2a through 111-2-2e	New	V. 14, p. 1633, 1684
111-2-6	Revoked	V. 13, p. 149
111-2-7	Revoked	V. 10, p. 1210
111-2-13	Revoked	V. 10, p. 881
111-2-14	Amended	V. 14, p. 1684
111-2-15	Revoked	V. 10, p. 881
111-2-16	Revoked	V. 10, p. 1210
111-2-17	Revoked	V. 10, p. 1210
111-2-18	Revoked	V. 11, p. 413
111-2-19	Revoked	V. 11, p. 413
111-2-20 through 111-2-26	Revoked	V. 13, p. 1401
111-2-27	Revoked	V. 14, p. 972
111-2-28	New	V. 12, p. 1844
111-2-29	Revoked	V. 14, p. 972
111-2-30	Amended	V. 14, p. 403
111-2-31	New	V. 14, p. 170
111-2-32	New	V. 14, p. 311
111-2-33	New	V. 14, p. 312
111-2-34	Amended	V. 14, p. 722
111-2-35	New	V. 14, p. 796
111-2-36	New	V. 14, p. 908
111-2-37	New	V. 14, p. 1094
111-2-39	New	V. 14, p. 1502
111-2-40	New	V. 14, p. 1502
111-3-1	Amended	V. 14, p. 908
111-3-6	Amended	V. 12, p. 677
111-3-9	Revoked	V. 11, p. 1793
111-3-10 through 111-3-31	New	V. 7, p. 201-206
111-3-11	Amended	V. 13, p. 35
111-3-12	Amended	V. 13, p. 1826
111-3-13	Amended	V. 11, p. 1148
111-3-14	Amended	V. 13, p. 1826
111-3-16	Amended	V. 9, p. 1566
111-3-19 through 111-3-22	Amended	V. 9, p. 30
111-3-19	Revoked	V. 13, p. 1827
111-3-20	Amended	V. 11, p. 1148
111-3-21	Amended	V. 11, p. 1148
111-3-22	Amended	V. 11, p. 1148
111-3-23	Revoked	V. 10, p. 883
111-3-25	Amended	V. 13, p. 1827
111-3-26	Amended	V. 11, p. 1149
111-3-27	Amended	V. 11, p. 1149
111-3-29	Revoked	V. 11, p. 1149
111-3-31	Amended	V. 8, p. 209
111-3-32	Amended	V. 10, p. 883
111-3-33	New	V. 7, p. 1434
111-3-34	New	V. 13, p. 149
111-3-35	Amended	V. 14, p. 909
111-3-36	New	V. 13, p. 877
111-3-37	New	V. 13, p. 877
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111-4-66 through 111-4-77	New	V. 7, p. 207-209
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111-4-102	Amended	V. 12, p. 1114
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AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

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AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
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117-3-2	Amended	V. 14, p. 534
117-4-2	Amended	V. 14, p. 534

AGENCY 121: DEPARTMENT OF CREDIT UNIONS

Reg. No.	Action	Register
121-1-1	New	V. 14, p. 1214

AGENCY 122: POOLED MONEY INVESTMENT BOARD

Reg. No.	Action	Register
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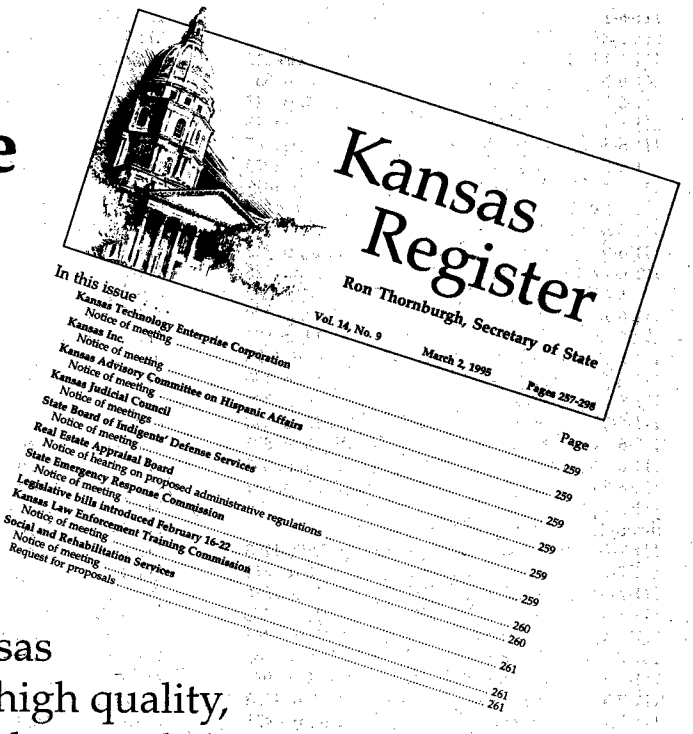
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